

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

March 3, 2008

1:19 p.m.

MEMBERS PRESENT

Representative Carl Gatto, Co-Chair
Representative Craig Johnson, Co-Chair
Representative Anna Fairclough
Representative Bob Roses
Representative Paul Seaton
Representative Peggy Wilson
Representative Bryce Edgmon
Representative Scott Kawasaki

MEMBERS ABSENT

Representative David Guttenberg

COMMITTEE CALENDAR

HOUSE BILL NO. 367

"An Act relating to the sale of raw milk and raw milk products."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 367

SHORT TITLE: SALE OF RAW MILK PRODUCTS

SPONSOR(S): REPRESENTATIVE(S) NEUMAN

02/13/08	(H)	READ THE FIRST TIME - REFERRALS	
02/13/08	(H)	RES, FIN	
02/29/08	(H)	RES AT 1:00 PM BARNES 124	
02/29/08	(H)	<Bill Hearing Postponed to Mon 03/03/08>	
03/03/08	(H)	RES AT 1:00 PM BARNES 124	

WITNESS REGISTER

REPRESENTATIVE MARK NEUMAN
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified as sponsor of HB 367.

JOSEPH MCLAUGHLIN, MD, Acting Chief
Section of Epidemiology
Division of Public Health
Department of Health & Social Services

POSITION STATEMENT: Testified that the Alaska Department of Health & Social Services opposes HB 367.

ROBERT GERLACH, DVM, State Veterinarian
Office of the State Veterinarian
Division of Environmental Health
Department of Environmental Conservation

POSITION STATEMENT: During hearing on HB 367, answered questions regarding raw milk and stated the sale of raw milk products should be prohibited.

ELISE HSIEH, Assistant Attorney General
Environmental Section
Civil Division (Anchorage)
Department of Law
Anchorage, Alaska

POSITION STATEMENT: Answered questions regarding HB 367.

KRISTIN RYAN, Director
Division of Environmental Health
Department of Environmental Conservation (DEC)
Anchorage, Alaska

POSITION STATEMENT: Answered questions regarding HB 367.

DON LINTELMAN, Owner
Northern Lights Dairy
Delta Junction, Alaska

POSITION STATEMENT: Opposed HB 367.

LARRY DEVILBISS
Palmer, Alaska

POSITION STATEMENT: Supported HB 367.

RICK WILLIAMS
Matanuska-Susitna Borough, Alaska

POSITION STATEMENT: Supported HB 367.

HEATHER FAIR
Matanuska-Susitna Borough

POSITION STATEMENT: Supported HB 367.

ACTION NARRATIVE

CO-CHAIR CARL GATTO called the House Resources Standing Committee meeting to order at [1:19:58 PM](#). Representatives Roses, Edgmon, Kawasaki, Wilson, Gatto, and Johnson were present at the call to order. Representatives Seaton and Fairclough arrived as the meeting was in progress.

HB 367-SALE OF RAW MILK PRODUCTS

[1:20:24 PM](#)

CO-CHAIR GATTO announced that the only order of business would be HOUSE BILL NO. 367, "An Act relating to the sale of raw milk and raw milk products."

[1:20:37 PM](#)

REPRESENTATIVE MARK NEUMAN, Alaska State Legislature, sponsor of HB 367, stated that HB 367 addresses a concern in Alaska and is somewhat a type of commerce legislation. He said Alaska's dairy industry has recently suffered some significant blows. The bill would not really affect the large milk producers in the state. It is for those who are wanting to get into the dairy industry with only three to five cows or with goats. He understood that lactose-intolerant people can drink goat's milk and that goat's milk can substitute for breast feeding. There is a large trend across America and Alaska of people wishing to purchase a more naturally-produced product and HB 367 would allow people to make that choice for themselves. It goes to the relationship between a consumer and a person who has a product for sale.

REPRESENTATIVE NEUMAN pointed out that countries like France and Italy are known for their high-value goat's milk products and twenty states have moved towards this as well. Sales at the Matanuska-Susitna Valley Farmers Market have gone from about \$1 million to \$4 million in the last three years. It is an indication that people want to have a more pure product to consume and people should have the right to this choice. The [raw milk] product would be labeled, he said. Currently, raw milk is labeled for animal consumption, but people take it home and drink it themselves.

REPRESENTATIVE NEUMAN explained that most everything in HB 367 is already in statute until page 2, line 27 onward, where a new section, Section 2, is added that deals with the sale of raw milk and what that means. Raw milk is unpasteurized, he explained. Pasteurization is the process of bringing milk up to

a specific heat for a specific time to prevent disease. However, people have been drinking unprocessed milk for a long time. People would like to have that opportunity and that is the reason for this bill.

[1:27:19 PM](#)

CO-CHAIR GATTO observed that nowhere in HB 367 does it refer to cow's milk. Is the bill intended to be limited [to cow's milk], he asked.

REPRESENTATIVE NEUMAN responded no, this is not intended to be limited to cow's milk. It is targeted for the smaller farmers because the larger dairies will be selling to a commercial market.

CO-CHAIR GATTO argued that the bill does not limit itself because it includes sales to ["a restaurant, grocery store, or similar establishment"].

REPRESENTATIVE NEUMAN replied that was included in the bill at the request of several stores that sell natural foods and use it as a marketing tool. For raw milk sold in a restaurant there would need to be an indication, such as an asterisk. The bill includes some requirements such as prominently stating that there may be some health risks associated with raw milk. He related that the Weston A. Price Foundation has been working for a long time to get more of these products across the state, and has written a report ["Response to the FDA"] included in the committee's packets which addresses concerns and illness that may have been caused [by raw milk]. The critical word is "may", he said. The report identifies the real causes which never received media attention.

[1:30:34 PM](#)

REPRESENTATIVE EDGMON observed that the fiscal note analysis states three new positions would be required to monitor the seven dairies along the road system in the Matanuska-Susitna Valley. He surmised that HB 367 is an attempt to stimulate economic development.

REPRESENTATIVE NEUMAN answered yes, it is trying to establish more economic development. He said he believes the number of dairies is down to six and these are already checked every month by the Department of Environmental Conservation (DEC), so that person is already there.

REPRESENTATIVE EDGMON inquired what it would mean from an economic development perspective if HB 367 did not pass.

REPRESENTATIVE NEUMAN responded that trying to grow agriculture in Alaska is very difficult. It goes beyond the amount of grain that could be purchased through this. The value of goat's milk is about one to two dollars per ounce and raw cow's milk can sell for up to five or six dollars per gallon.

[1:33:03 PM](#)

JOSEPH MCLAUGHLIN, MD, Acting Chief, Section of Epidemiology, Division of Public Health, testified that the health risks associated with legalizing the sale of raw milk substantially outweigh the benefits. Unpasteurized milk is far more likely to contain human pathogens than pasteurized milk and, therefore, increases the risk of serious and sometimes fatal infectious illness among milk consumers. Those who are at increased risk for serious health outcomes include the developing fetus, young children, and the elderly who may be incapable of making an informed decision with respect to consuming raw versus pasteurized milk. The potential health benefits of raw milk consumption are largely unsubstantiated by empirical scientific evidence.

DR. MCLAUGHLIN said the Department of Health & Social Services supports prohibiting the sale of raw milk and this is consistent with positions taken by the U.S. Centers for Disease Control and Prevention (CDC), the U.S. Food and Drug Administration (FDA), the American Medical Association, the American Public Health Association, the American Academy of Pediatrics, and other professional health organizations. Many human pathogens are commonly found in raw milk, including *Escherichia coli* (*E. coli*) O157:H7, a lethal pathogen for some people, *Salmonella*, and *Campylobacter*, and so on. These pathogens may be shed directly from the animal or contaminate milk during the collection and handling process and it is very difficult to prevent that from occurring, he related. Multiple studies have illustrated a dramatic increase in the incidence of multi-drug-resistant bacteria that are present on small and large farms throughout America. This increases the risk of serious health outcomes as a result of getting these infections. Between the years 1973 and 1992, raw milk was associated with 46 outbreaks; 87 percent of these outbreaks occurred in states where commercial distribution of raw milk was legal. Between the years 1998 and 2005, the CDC traced more than 1,000 illnesses, 104

hospitalizations, and 2 deaths to the consumption of raw milk or cheese produced from raw milk. Brand new data to be released this spring by the CDC shows that between the years 1998 and 2006, 92 percent of the 50 outbreaks that occurred in the U.S. during that time period were linked to consumption of unpasteurized liquid milk.

DR. MCLAUGHLIN stated most foods run the risk of being contaminated with human pathogens. The risk varies depending on the origin of the food product, how it is raised, and how it is handled. Each food group is assessed independently. This bill is not about the legality of selling raw meat or other products; it is about the legality of selling raw milk. The focus must be on comparing the risks and benefits associated with a new law that would legalize the sale of raw milk in Alaska and use regulations to protect the public's health. The risks are substantially greater with raw milk products than with pasteurized milk products. Government officials have a duty to protect those who do not have the capacity or sufficient information to make a decision with respect to the foods that they consume.

DR. MCLAUGHLIN noted there are other costs associated with HB 367, including the loss of public trust in a product and in the government officials who are making these decisions. There is also the cost to the industry if an outbreak occurs, and tremendous risk to the industry if there is an outbreak. He said the Alaska Department of Health & Social Services strongly opposes HB 367 on the grounds that allowing the sale of raw milk poses a substantial risk to the health of Alaskans.

[1:41:19 PM](#)

REPRESENTATIVE ROSES asked whether there are any known cases of outbreaks or illnesses in Alaska due to sales of raw milk.

DR. MCLAUGHLIN responded he has been in his job for only a short time and is not aware of any outbreaks in Alaska in the recent past. In response to Co-Chair Gatto, Dr. McLaughlin agreed to provide further information when he submits his written testimony to the committee.

REPRESENTATIVE EDGMON inquired what the general shelf life is for raw milk when it is properly cared for.

DR. MCLAUGHLIN deferred to the state veterinarian.

[1:42:44 PM](#)

REPRESENTATIVE SEATON asked for further explanation of the drug-resistant bacteria issue.

DR. MCLAUGHLIN replied there is a laundry list of bacteria that have been implicated in the consumption of milk and, specifically, raw milk. These bacteria have been changing over time, and in the past 10 years in particular there has been a dramatic increase in the incidence and prevalence of multi-drug- and single-drug-resistant strains of various bacteria. Animals shed these resistant bacteria in their feces and one of the prime ways for milk contamination is through fecal contamination during the milking process. It is much more difficult to treat infections due to the prevalence of drug-resistant bacteria.

[1:44:22 PM](#)

CO-CHAIR GATTO surmised that pasteurization eliminates drug-resistant bacteria, but once a bacterium is acquired it is difficult to treat because of its drug resistance.

DR. MCLAUGHLIN explained that Grade "A" raw milk for pasteurization has an FDA allowable threshold of 300,000 bacteria per milliliter and Grade "A" pasteurized milk has an allowable threshold of fewer than 20,000 bacteria per milliliter. There has been an increased prevalence of drug-resistant bacteria on farms, so people consuming raw milk are at far greater risk for infection. Whether raw or pasteurized milk is consumed, there is an increased chance that the bacteria causing the infection will be resistant to at least one drug.

[1:45:49 PM](#)

DR. MCLAUGHLIN, in response to Co-Chair Johnson, reiterated that new data from the CDC shows that of the 50 outbreaks that occurred between the years 1998 and 2006, 92 percent were linked to the consumption of liquid raw milk.

CO-CHAIR JOHNSON understood this to mean there were 46 cases in 8 years caused by unpasteurized milk.

DR. MCLAUGHLIN clarified that the number is outbreaks, not cases. An outbreak could involve anywhere from several cases to hundreds of cases.

CO-CHAIR JOHNSON inquired how many cases these specific outbreaks involved.

DR. MCLAUGHLIN said this is new data that will not be published until the CDC presents it at the June [2008] conference of the Council for State and Territorial Epidemiologists. However, he offered to provide the committee with articles that have been published from studies looking at raw milk consumption as a risk factor for infectious illness between the years 1973 and 1992 and between the years 1998 and 2005.

[1:48:30 PM](#)

CO-CHAIR JOHNSON asked how many cases it takes to be considered an outbreak.

DR. MCLAUGHLIN responded what is considered an outbreak of an infectious disease is often a grey zone and varies depending on the disease and the baseline prevalence of the disease in the community. One case of *E. coli* O157:H7, an uncommon and potentially lethal pathogen, could be considered an outbreak. One case of botulism is considered an outbreak. For more common bacteria like *Salmonella* and *Campylobacter* an outbreak would be 10 or more cases.

REPRESENTATIVE FAIRCLOUGH inquired how many of the aforementioned outbreaks were from the pasteurized milk.

DR. MCLAUGHLIN answered 46 outbreaks were attributed to the consumption of unpasteurized milk and 4 were attributed to pasteurized milk.

[1:51:07 PM](#)

CO-CHAIR GATTO asked if the aforementioned pasteurized milk had been compromised in some manner during the pasteurizing process.

DR. MCLAUGHLIN explained that during the pasteurization process, temperatures are brought rapidly up to at least 161 degrees Fahrenheit for at least 15 seconds, then the milk is immediately cooled to below 40 degrees and packaged into plastic bags or jugs. Pasteurization destroys human pathogens, yeasts, mold, and many spoilage bacteria that may be carried in cow's milk. Once the milk has gone through an appropriate pasteurization process, the milk is considered to be sterilized from human pathogens. There may be other bacteria present that are heat resistant, but they are not human pathogens - with one

exception. That exception is spore-forming bacteria, such as *Bacillus cereus* and the bacteria that can cause botulism which produce heat-resistant spores. Outbreaks related to consumption of pasteurized milk are almost always due to contamination after the pasteurization process.

CO-CHAIR GATTO requested Dr. McLaughlin to submit his testimony in writing.

DR. MCLAUGHLIN said he would do so, along with the other information.

[1:54:22 PM](#)

ROBERT GERLACH, DVM, State Veterinarian, Office of the State Veterinarian, Division of Environmental Health, in response to Representative Edgmon's previous question, noted that the shelf life of certified raw milk is 14 days after it is produced. A number of studies were conducted in 2002, 2004, and 2005 regarding the contamination of raw milk that is associated with the production on the farm. The sampling procedure involved 30 states and more than 1200 farms. Two to ten percent of the farms had at least one human pathogen identified in the raw milk. Two of the studies found that 25 percent of the dairies that produced the milk had contaminated products; however, those pathogens would be removed during pasteurization process. Dr. Gerlach noted that 90 percent of the recent outbreaks of food-borne illnesses have occurred in states that have certified test programs for raw milk. He cited three outbreaks in 2007 that were associated with one Pennsylvania farm that had contamination despite being an exemplary farm in its sanitation and disinfection and had gone through rigorous testing. This is why there is concern in respect to the risk of raw milk products. In response to Co-Chair Gatto, Dr. Gerlach said his position is that the sale of raw milk products should be prohibited. In further response, he said would submit his testimony in writing.

[1:59:56 PM](#)

REPRESENTATIVE EDGMON inquired whether there are any states that provide raw milk to schools.

DR. GERLACH responded he does not know.

REPRESENTATIVE EDGMON acknowledged the stack of letters supporting HB 367 in his packet, but said he is trying to weigh

the benefits versus the risks and will wait for another witness to answer his question.

2:00:50 PM

REPRESENTATIVE SEATON, in regard to drug-resistant bacteria, asked whether the states [that have certified test programs for raw milk] have regulations that prohibit these dairies from using antibiotics in the feed or in the livestock.

DR. GERLACH replied yes, the dairies are restricted from using certain products in order to label their products as organic. Unfortunately, he said, multi-drug-resistant bacteria have been found on all farms, as well as in wildlife and environmental samplings in rural and urban areas. There is an increased occurrence of multi-drug-resistant bacteria in any setting where there are animals. In further response to Representative Seaton, Dr. Gerlach said there has not been a study that has shown that farms with a decreased use of antibiotics have any less frequency of the multi-drug-resistant bacteria. These bacteria seem to be pretty widespread and seem to be inherent with the production of animals.

2:03:42 PM

REPRESENTATIVE KAWASAKI inquired whether raw milk that is sold goes through any sort of process or does it just go straight from the cow to the container.

DR. GERLACH answered HB 367 would address just the direct sale of the raw milk from the animal. Generally, it is contained within a bulk tank or a vat and then distributed, so there is not a process that the milk goes through prior to its sale.

2:04:33 PM

CO-CHAIR GATTO asked whether DEC requires the use of stainless steel containers and a daily cleanup of the milk processing facility.

DR. GERLACH explained that all Grade "A" dairies must go through a permitting process where the dairy itself is inspected for cleanliness and handling of the animals and the wastes. The water is tested and the equipment used for handling the milk is checked. There is a standard procedure for cleaning and disinfecting the equipment used for collection and transfer of the milk to the bulk tank. There are also procedures required

for sanitation and cleanliness of the workers caring for the animals and collecting the milk samples. The system for Grade "A" milk is very rigorous to try to reduce the contamination and incident of food-borne bacteria. Even with these guidelines, two to ten percent of the production facilities still end up having bacteria in the milk before it is pasteurized.

CO-CHAIR GATTO informed the committee that the \$270,000 fiscal note for DEC has a two-page analysis that incorporates much of this information.

[2:06:41 PM](#)

REPRESENTATIVE FAIRCLOUGH, in response to Representative Kawasaki's question, said there was a filtration process for the raw milk produced on the farm that she used to be on.

REPRESENTATIVE NEUMAN interjected that there are safe handling procedures for a lot of foods. He advised that things be put in perspective in regard to outbreaks associated with all other foods. Between the years 1998 and 2005 there were over 10,000 documented outbreaks attributed to food-borne illnesses. Raw milk was associated with 0.4 percent of those outbreaks. Look at the number of recent outbreaks associated with raw spinach and strawberries, he said. The question is whether raw milk carries any unique risks that distinguish it from other ordinary foods. The FDA does not make any comparisons to these other foods. No one says how many people got sick from eating hot dogs, spinach, or strawberries. It all goes back to safe handling practice and certainly milk should not be purchased from a dairy where the cows have manure on their udders.

CO-CHAIR GATTO responded there is no opportunity to review the farm's cleanliness when the product is on the grocery shelf.

[2:10:14 PM](#)

REPRESENTATIVE WILSON commented that she was raised on a dairy farm and she drank filtered raw milk while growing up, and as an adult she raised goats and drank raw goat milk. In all that time no one ever get sick from the milk. She said she feels confident in this and that someone doing this will be pretty careful in how the milk is handled and the cleanliness.

The committee further discussed the filtering and cleaning processes used for raw milk on Representative Wilson's and Representative Fairclough's family farms.

2:14:51 PM

REPRESENTATIVE FAIRCLOUGH allowed there is a positive history with U.S. dairy farmers, but that she is at pause given the public health risks brought forward by today's testimony.

REPRESENTATIVE SEATON commented that a few years ago there was not the antibiotic-resistant bacteria problem that is seen today, especially in hospitals. So much antibiotic is being injected and fed to farm animals today that was not used years ago and now there is antibiotic-resistant bacteria in the milk. What is the risk of human pathogens today compared to when there were no antibiotics on the farms, he asked. The question is whether it is a different situation for people who live on the farm with those animals and people who continually consume these raw products which results in immunity to certain diseases over time. Will people purchasing raw milk also develop immunities over time, he asked.

CO-CHAIR GATTO agreed that exposure to bacteria is a good thing as long as it is not fatal. However, he is concerned about infants and fetuses given the testimony in this regard.

2:20:03 PM

CO-CHAIR GATTO said he is perfectly okay with a willing buyer meeting a willing seller. However, is the state off the hook in allowing the sale of raw milk, he asked.

ELISE HSIEH, Assistant Attorney General, Environmental Section, Civil Division (Anchorage), Department of Law, replied that if the legislature chooses to weigh the risks and makes the public policy decision [to allow the sale of raw milk products], then the decision should be protected by immunity.

2:21:30 PM

CO-CHAIR JOHNSON inquired about the liability of the farmer who sells milk with a pathogen in it. Would liability insurance need to be carried by the farmer, he asked.

MS. HSIEH answered yes, the [farmer] would be liable and could be sued if someone becomes ill and sustains damages. Carrying insurance is not legally required because that is not included in the bill.

CO-CHAIR JOHNSON inquired whether passing HB 367 would indemnify the farmer from legal action.

MS. HSIEH responded no, there is no indemnification provision.

[2:23:09 PM](#)

REPRESENTATIVE SEATON cited Title 21 of the Code of Federal Regulations (CFR) banning the interstate distribution and sale of raw milk. Does this mean there is no violation of the federal regulation if the raw milk is distributed only within the state of Alaska, he asked.

MS. HSIEH replied yes, that is correct. States are allowed to regulate raw milk sales within their borders for consumption by consumers.

REPRESENTATIVE SEATON surmised cheese made from raw milk could not be sold out-of-state.

MS. HSIEH answered yes, that is her interpretation.

REPRESENTATIVE NEUMAN stated cheese with a shelf life of 60-90 days can be sold [out-of-state].

[2:25:27 PM](#)

REPRESENTATIVE SEATON said his interpretation of Title 21 is that no raw milk product can be sold in interstate commerce and can be sold only in Alaska.

REPRESENTATIVE NEUMAN responded there are people online who can answer the question.

MS. HSIEH interjected that under Title 21, Section 1240.61, paragraph (a), there is a curing of certain cheese varieties that would be exempt from the regulation.

[2:27:03 PM](#)

KRISTIN RYAN, Director, Division of Environmental Health, Department of Environmental Conservation (DEC), stated she will be sending a fact sheet to the committee that was prepared by the Department of Health & Social Services, the Department of Environmental Conservation and the Department of Natural Resources. She clarified that another allowable process other than pasteurization is aging for 60 days, and this is adequate

for eliminating pathogens in hard cheeses. It is correct that federal statutes do not allow any raw milk or milk products to be sold across state lines. Within state boundaries, the FDA gives recommendations but does not tell the state what to do. Alaska has adopted the federal rules outright and uses the FDA's Pasteurized Milk Ordinance for regulating milk.

MS. RYAN explained that pasteurization eliminates not only the pathogens but also contagious diseases, such as tuberculosis and brucellosis. The Division of Environmental Health, like its sister agencies FDA and CDC, has not seen any reductions in benefits from pasteurized milk as compared to raw milk. Responding to Representative Edgmon's earlier question, Ms. Ryan stated schools cannot serve raw milk, especially if they receive any federal funding. For organic labeling, there are organic standards that would require disclosure of antibiotics on the label. The way HB 367 is currently written, there are no restrictions preventing antibiotics from being in the raw milk. She warned about emerging diseases and that these diseases primarily come from animals, such as *E. coli* which is a disease that was not a problem 50 years ago.

[2:31:00 PM](#)

CO-CHAIR GATTO asked whether the aforementioned *E. coli* is the same or different than the *E. coli* naturally carried in the human gut.

MS. RYAN replied it is a different species - *E. coli* O157 - which is primarily in bovine intestines and not the same type of *E. coli* found in human intestines.

MS. RYAN stated that the permitting or pre-certification process does not stop outbreaks from occurring like it does for other products such as shellfish. The state of Washington just had an outbreak in 2005. Good sanitation and pre-testing of the products does not seem to stop the outbreaks.

CO-CHAIR GATTO asked whether exposure to some of the bacteria generates a permanent immunity.

MS. RYAN said she cannot answer that. There may be some indication of that, but what is being seen is people with permanent kidney damage after exposure to *E. coli* O157.

[2:33:05 PM](#)

DON LINTELMAN, Owner, Northern Lights Dairy, stated his dairy pasteurizes its milk and went into pasteurization because, at the time, the dairy had more milk than it could sell as raw milk. Additionally, washing the jars returned by customers created a problem for the dairy. The dairy uses [Charm Sciences, Inc] tests for 40 different antibiotics and also performs coliform and Standard Plate Counts (SPC counts). He said he would not want to see a raw milk bill go through.

CO-CHAIR GATTO inquired whether raw milk can be Grade "A".

MR. LINTELMAN answered no, Grade "A" must be pasteurized. In further response to Co-Chair Gatto, he stated raw milk would be Grade "B" and Grade "C". Grade "B" goes into cans or bulk tanks until it is inspected and Grade "C" is milking by hand.

[2:35:15 PM](#)

CO-CHAIR GATTO noted that the next witness, Larry Devilbiss, is the former director of the Division of Agriculture, Department of Natural Resources.

LARRY DEVILBISS stated he is now a farmer and has studied this for 10 years. He understood the majority of states have raw milk legislation. He knows from a previous meeting with regulators on a national basis that none of that raw milk legislation was supported by the regulating agencies in those states - it always happened at the level of legislators. He said he has also followed the horror stories just heard by the committee, but would like to repeat previous testimony that it is minuscule compared to the rest of the food industry.

MR. DEVILBISS said he grew up in Alaska milking cows by hand and has travelled a lot overseas, and it is his unscientific opinion that the sterility Americans have grown up with these days, including exposure to only pasteurized milk, has created a race of people who are extremely vulnerable and who are unable to drink the water and eat the products that people in other countries eat every day. Sooner or later that will backfire on this nation. It is one reason why people are so vulnerable to outbreaks like the *E. coli* outbreaks with spinach a few years ago. He said it is his conviction that raw milk could play a huge role in building up immune systems.

MR. DEVILBISS said he firmly supports the labeling of raw milk and that raw milk should not be dumped on the unsuspecting. It should be labeled with the risks that have been cited today.

Instructions for pasteurization or partial pasteurization could be on the label as it is not a high-tech process. He does not think there will be new startups in the dairy industry in Alaska until these new niches are opened up. He supports HB 367 or something like it. He said that when he was director [of the Division of Agriculture], he suggested bringing forward the requirement that sales be limited to direct sales and that the farmers be required to keep a customer list for one year after sales so if there was an outbreak it would be much easier to track. This has been done successfully in other states. He said he thinks all farmers are aware that they bear the liability on this and carry the appropriate liability insurance that is required for most farmer's products.

[2:41:22 PM](#)

REPRESENTATIVE SEATON asked how available liability insurance is for raw milk products and what the cost is compared to pasteurized dairy products.

MR. DEVILBISS said he does not have any specifics and is sure there is a difference, but probably not a significant difference. "We have to carry \$2 million per incident just to be able to sell an unprocessed carrot in a store," he said. He did not know whether a raw milk component would change that a lot because when he started selling meat it did not make a difference on his insurance policy. He advised the committee to talk to an [insurance] agent.

[2:42:43 PM](#)

RICK WILLIAMS, speaking on behalf of himself, said he hopes the law will change because he does not feel it has any business in this state due to Alaska's location. Giving the people of Alaska the right to choose where they buy their fresh milk and produce will create new agriculture and a greater self-reliance for the state. He urged the committee to vote in favor of HB 367 and give people the right to choose what they feed their families. He said he has been drinking raw milk almost all of his life and in the last six years he has not had a cold or flu or a flu shot. He related that four people were documented as dying from pasteurized milk in Massachusetts. He said that if there is a documented case of someone dying from raw milk he has not been able to find it. Most of the people that come to his farm wanting fresh milk or cheese already know what they are getting into and it is not an issue with them because they are already educated. As far as the studies from the federal

agencies, most of that is from the Lower 48 and this is an Alaska issue.

[2:45:54 PM](#)

HEATHER FAIR said that in 2007 she became the owner of dairy goats which she milks for her personal consumption. She researched this for 11 years because her health has been failing using the more traditional means. She also has other livestock for personal use. She supports HB 367 and has provided the committee with copies of e-mails she sent to Dr. Gerlach. She said she echoes the thoughts of Rick Williams, as well as the statistics cited by Representative Neuman relating to perspective. She said she is confused by Dr. McLaughlin's statement that raw milk should not be compared to other food stuffs. Raw milk is the only food that it is illegal to sell in Alaska in its raw form. She cited statistics from the Weston A. Price Foundation that between the years 1990 and 2004 there were numerous illnesses from poultry, produce, beef, eggs, and seafood totaling roughly 100,000 cases. There are over 9.2 million cases of food-borne illnesses per year in the U.S. from *Campylobacter*, *Salmonella*, *E. coli*, and these sorts of things. Most important, however, is that over the past 20 years pasteurized milk has been the source of almost 240,000 cases of illness and 620 deaths, according to the Weston A. Price Foundation. Pasteurization destroys the good bacteria as well as the bad, so any harmful bacteria that becomes present after the pasteurization process can flourish. Destroying this good bacteria also affects the natural defenses of humans. Twenty-eight states have made the sale of raw milk legal despite the opposition of federal agencies. Ms. Fair said it would be counterproductive to produce a product that is unclean and makes people sick because most farmers consume their own products.

[2:52:39 PM](#)

MS. RYAN directed attention to testimony in the committee's packets from John Sheehan, Director of the Division of Plant and Dairy Safety at the FDA, which [the Division of Environmental Health] supports and which refutes many of the points also in the committee's packets. The division believes that the limited outbreaks from raw milk are primarily because it has been illegal to sell and not widely distributed. She acknowledged that outbreaks do occur with other food, but [the division] controls it as much as it can. For example, chicken is not restricted from being sold raw because people eat it cooked, as far as the division knows, whereas that is not the case for raw

milk. Every food product is regulated differently depending on how it is handled by the consumer.

2:54:01 PM

REPRESENTATIVE EDGMON inquired how the raw milk is actually distributed and sold if it is not sold in stores. He said he is asking the question in relation to the economic development that HB 367 might engender.

MS. RYAN responded there are dairies that sell their milk to a processor, but there is more milk than the processors can buy. With the Matanuska Maid Dairy closing the state is in a flux while it waits for more processors to come on line and start buying milk. [The Division of Environmental Health] permits the processor and the milk farmer selling to the processor. It is a very rigorous process to sell milk because of the inherent risks and the number of people drinking it, including children. A new certified processor expected to be opening in the Matanuska-Susitna Valley in the next two weeks and [the division] will be right there to get that processor certified.

2:56:13 PM

REPRESENTATIVE EDGMON asked whether the fact that raw milk is not pasteurized means it is not processed.

MS. RYAN replied that is how [the Division of Environmental Health] would interpret it. Right now only milk that has been pasteurized is allowed to be sold. If a person owns a cow, that person can do whatever he or she wants for drinking the milk, but if the milk is sold to the public it must be pasteurized and go through the division's certification program. The bill would allow raw milk to also be sold to restaurants and grocery stores, so some of the fiscal note reflects one new inspector to be out at the farms helping those new dairies to follow some sort of a certification plan put together by [the division]. The fiscal note is also to increase [the division's] inspections of restaurants and grocery stores so that it is clearly separated to prevent mistakes in providing it to people.

2:57:13 PM

REPRESENTATIVE EDGMON surmised the economic development potential of HB 367 could be fairly significant.

MS. RYAN said it is difficult for her to say. It will compete with processors and people providing pasteurized milk.

CO-CHAIR GATTO guessed that most milk in the major grocery chains is from Seattle.

MS. RYAN answered that the milk product from the Northern Lights Dairy does not get much further than Fairbanks right now.

CO-CHAIR GATTO commented that with the Matanuska Label now gone, this bill would go back to local agriculture.

[2:58:16 PM](#)

REPRESENTATIVE KAWASAKI noted he does not personally drink milk, but said he does not have a problem when there is a willing seller and a willing buyer. How would DEC monitor compliance of raw milk sellers in order to ensure safety, he asked, and can the department ensure safety with the amount of money in the fiscal note.

MS. RYAN stated the fiscal note reflects different inspectors for different programs. She said her division has the state veterinarian through which dairy operations are regulated. Ms. Ryan's division also regulates the food safety program, so a food safety inspector is needed to conduct inspections at the end-of-market. Her division would need an additional dairy inspector to work with the farms to ensure they are following the regulation standards for cleanliness, testing, and herd maintenance. All of that would have to be developed in regulation. The division's best guess is that one inspector could probably handle it, provided it is only the six primarily goat farms on the road system that are currently being heard from. The third person included in the fiscal note is for the Division of Environmental Health's laboratory which is the FDA certified lab for testing cell counts, antibiotics, bacteria, and everything else that is looked for in milk. She related that California just did a survey of states that allow the sale of raw milk and found there are still outbreaks. California itself just had an outbreak from raw milk and is now re-evaluating its raw milk program. She said she did know that the division could effectively say it could do it safely - that is a policy decision for the legislature. However, the division's public health perspective is that raw milk is unable to be sold in a manner that is as safe as other products.

[3:01:14 PM](#)

REPRESENTATIVE KAWASAKI noted that it is all a general fund request. Could it be a receipts supported service, he asked.

MS. RYAN responded that how this is funded is at the will of the legislature; the division put it into the general fund just to start the discussion. It has been controversial in the past regarding who gets free service from [the Division of Environmental Health] and who does not. Historically, dairy farmers have gotten free inspection.

[3:02:05 PM](#)

REPRESENTATIVE WILSON inquired why not have the person who is currently testing the pasteurized milk also test the raw milk. Will it be that much more testing that another person is needed, she asked.

MS. RYAN replied [the Division of Environmental Health] is assuming so. It is difficult to know how much work is involved in helping the farmers since the division must develop the regulations that the farmers must comply with. But, historically, dairy farmers have needed quite a bit of support, oversight, and technical assistance to stay in compliance.

REPRESENTATIVE WILSON clarified she was talking about the lab.

MS. RYAN answered yes, because [the division] modeled its approach on how it regulates the pasteurized milk at farms. A lab must be on site to conduct daily testing and sampling of batches and [the division] certifies that lab to make sure it is doing the tests right. So, not only is [the division] collecting samples and double-checking on a monthly basis, [the division] is also certifying the farm's facility to be doing the fecal coliform counts on site so that there are daily checks.

[3:03:36 PM](#)

REPRESENTATIVE SEATON referred to the sponsor's statement that only four-tenths of food-borne outbreaks in the U.S. were from raw milk. Is there any comparative data on what percentage of the total food supply is represented by raw milk, he inquired.

MS. RYAN responded that the number would be extremely low since raw milk sales are illegal in most of the U.S. [The division] would expect it to increase if raw milk sales increase. She said she will get back to the committee with a percentage.

[HB 367 was held over.]

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 3:04 p.m.