

**ALASKA STATE LEGISLATURE**  
**HOUSE RESOURCES STANDING COMMITTEE**

March 10, 2008

1:07 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
03/03/08	(H)	Heard & Held
03/03/08	(H)	MINUTE(RES)
03/10/08	(H)	RES AT 1:00 PM BARNES 124

**WITNESS REGISTER**

GAUKHAR YERZHANOVA, Exchange Student  
Eagle River High School

Eagle River, Alaska

**POSITION STATEMENT:** During hearing on HB 367, testified about the sale of raw cow milk in her home country of Kazakhstan and supported Americans having the option to choose between purchasing raw or pasteurized milk.

MEERIM BAKGYBEKOVNA, Exchange Student  
South Anchorage High School  
Anchorage, Alaska

**POSITION STATEMENT:** During hearing on HB 367, testified about the sale of raw cow milk in her home country of Kyrgyzstan and supported Americans having the option to choose between purchasing raw or pasteurized milk.

MOHAMMAD ALSHAALAN, Exchange Student  
West High School  
Anchorage, Alaska  
from country of Saudi Arabia

**POSITION STATEMENT:** During hearing on HB 367, testified about the sale of cow and goat milk in his country of Saudi Arabia.

PETER FELLMAN, Staff  
to Representative John Harris  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** During hearing on HB 367, answered questions regarding milk.

REPRESENTATIVE MARK NEUMAN  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Testified as sponsor of HB 367.

REX SHATTUCK, Staff  
to Representative Mark Neuman  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions regarding HB 367.

TINA OTTO, Assistant Attorney General  
Natural Resources Section  
Civil Division (Anchorage)  
Department of Law (DOL)

**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.

#### **ACTION NARRATIVE**

**CO-CHAIR CARL GATTO** called the House Resources Standing Committee meeting to order at [1:07:48 PM](#). Representatives Kawasaki, Fairclough, Seaton, Roses, Edgmon, Gatto, and Johnson were present at the call to order. Representative Wilson arrived as the meeting was in progress.

#### HB 367-SALE OF RAW MILK PRODUCTS

[1:08:00 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."

[1:09:23 PM](#)

GAUKHAR YERZHANOVA, Exchange Student, Eagle River High School, stated that raw milk must be available and affordable to American citizens because it is a natural product that is good for them and the economy. She said raw milk is always available in her country of Kazakhstan [in Central Asia]. It is more expensive sometimes because it is healthy. Americans must have options.

CO-CHAIR GATTO inquired whether raw milk in Kyrgyzstan is purchased from a store or from a farmer.

MS. YERZHANOVA responded from a farmer. In further response, she noted the milk comes in a container, but there is no testing and certification like in America.

[1:12:54 PM](#)

REPRESENTATIVE FAIRCLOUGH asked Ms. Yerzhanova to describe the process her mother goes through after buying raw milk.

MS. YERZHANOVA replied her mother goes to the farmers at the bazaar. She also orders for other people in the village. Like buying raw meat and cooking it, raw milk should be boiled before drinking. Raw milk has natural bacteria in it and is very

healthy. She said the many artificial products in America were very difficult for her. In response to Co-Chair Gatto, Ms. Yerzhanova noted that having organic and non-organic vegetables is weird to her.

[1:14:41 PM](#)

MS. YERZHANOVA, in response to Representative Seaton, confirmed that her mother boils the raw milk before she consumes it. In further response, she said she does sometimes drink it without boiling, but her mother does not like that because it is supposed to be boiled. But boiling at home is different than pasteurizing and sterilizing, she said.

MS. YERZHANOVA, in response to Co-Chair Gatto, confirmed that the milk is heated to bubbling when it is boiled. In response to additional questions from Co-Chair Gatto, she said she did not know the temperature of the milk when it was bubbling. There is not a high rate of deaths from drinking raw milk. Babies are fed milk only after boiling because some bacteria have to be killed, but not all of them.

[1:17:05 PM](#)

MEERIM BAKGYBEKOVNA, Exchange Student, South Anchorage High School, supported Ms. Yerzhanova's statements and explained that raw milk does not go through factories in her country of Kyrgyzstan [in Central Asia]. People in rural areas live with their cows and take the milk to the cities and sell it. Buying milk from factories is too expensive, so people buy raw milk and boil it to drink it. Everybody drinks it, including the children, because it is healthy. People do not get sick.

MS. YERZHANOVA, in response to Co-Chair Gatto, said the milk is purchased at a grocery bazaar, not a market like Fred Meyer's.

MS. BAKGYBEKOVNA added that people bring bowls for the milk and the bazaar is outside in both winter and summer. The people boil and drink, and the babies drink it, too.

CO-CHAIR GATTO asked whether any of the milk is boiled prior to purchase.

MS. YERZHANOVA shook her head no.

MS. BAKGYBEKOVNA answered the milk is not boiled. [The buyer] is supposed to boil it for six to ten minutes and the bacteria

will be gone. Raw milk is really important. The United States is a developed country and can give opportunity to farmers to give the people raw milk.

[1:21:30 PM](#)

MS. YERZHANOVA, in response to Representative Wilson, said the milk keeps for about seven days.

REPRESENTATIVE WILSON inquired whether the milk is warmed until it gets a film on top or brought to a rolling boil for a period of time.

MS. YERZHANOVA said it has to be a rolling boil.

MS. BAKGYBEKOVNA stated her mother boils the milk for six to eight minutes, but some people boil it for three minutes.

MS. YERZHANOVA reiterated that it has to really boil.

MS. BAKGYBEKOVNA noted that when she came to the U.S. the food and everything was all different and it took a long time to adapt. She said that when she drank the milk, it was just water, no taste, very different, but she likes the food here. In response to Co-Chair Gatto, she said she likes Mexican food the best.

[1:23:49 PM](#)

CO-CHAIR GATTO explained that fat free milk will taste watery.

MS. YERZHANOVA agreed.

CO-CHAIR GATTO asked whether the milk comes in a container or must people bring their own.

MS. BAKGYBEKOVNA responded that people in Kyrgyzstan use a special jar that is about one liter. Each jar costs a certain amount of money

[1:26:05 PM](#)

MS. YERZHANOVA, in response to Co-Chair Gatto, said the jar is made of glass.

CO-CHAIR GATTO inquired whether the milk is boiled immediately after being brought home.

MS. BAKGYBEKOVNA replied the milk is brought home in glass jars and can be kept one or two days in the refrigerator without boiling, but it is best to boil the milk right away.

[1:27:41 PM](#)

CO-CHAIR GATTO surmised there is worry about the raw milk and people would not drink it without boiling it.

MS. BAKGYBEKOVNA agreed. Many people have no baking machines or toasters, they bake outside. The milk is a daily thing.

[1:28:37 PM](#)

CO-CHAIR GATTO explained that milk in the U.S. is pasteurized by heating it to about 80 degrees Centigrade, which is not boiling, and then it is put on the shelf to sell. Boiling it for six to eight minutes is more than what is done in the U.S. for pasteurization. The pasteurization kills much of the bacteria, but not all, and the bacteria that is left is okay. The question before the committee is whether raw milk is safe to drink without being heated first.

MS. YERZHANOVA answered she has many experiences of drinking cold raw milk and she is okay. Raw milk can be available just as raw meat is available. It can go through some tests and just not be recommended for children. In response to further questions from Co-Chair Gatto, Ms. Yerzhanova shook her head no that she does not eat raw fish purchased from the bazaar. She said she cooks raw meat, but she knows some people who eat raw meat because it does not have carcinogens. She reiterated that she thinks raw milk should be available.

MS. BAKGYBEKOVNA stated that raw milk is not safe for children or old people without heating. The container has instructions to boil the milk, so people have the choice of whether to do that or not. It would be much better for the [American] economy.

[1:33:08 PM](#)

CO-CHAIR GATTO asked whether the container that the milk is brought home in has a label that says to boil it.

MS. YERZHANOVA said no.

MS. BAKGYBEKOVNA stated no, her people were nomads for thousands of centuries and everyone knows as a culture.

[1:33:39 PM](#)

REPRESENTATIVE FAIRCLOUGH thanked Ms. Yerzhanova and Ms. Bakgybekovna for coming to Alaska and coming to Juneau to testify. She informed the committee that she had previously told Ms. Yerzhanova that her opinion was contrary to Ms. Yerzhanova's, but as a state representative she is required to listen to all opinions.

REPRESENTATIVE WILSON said she grew up on a farm in Iowa and drank raw milk for her first 20 years of life. When it was in a bottle for a baby, the [raw] milk was heated to just a skim on the top, but as soon as the baby could drink out of a cup it was no longer heated.

REPRESENTATIVE ROSES commented that as a child he drank many gallons of milk when he visited his grandparents' farm. He thanked Ms. Yerzhanova and Ms. Bakgybekovna for testifying and that they speak highly for the student exchange program.

MS. BAKGYBEKOVNA thanked the committee for the nice experience.

MS. YERZHANOVA thanked the committee for the opportunity to express herself.

[1:38:25 PM](#)

MOHAMMAD ALSHAALAN, Exchange Student, West High School, Anchorage, Alaska, stated he wants to be a doctor of medicine. In response to questions from Co-Chair Gatto, Mr. Alshaalan said that in his country of Saudi Arabia cow milk goes to a factory like in the U.S., but goat milk does not.

REPRESENTATIVE ROSES inquired whether people in Saudi Arabia raise their own goats and use the milk themselves or buy the goat milk at a farmers market.

MR. ALSHAALAN responded it depends. There are local stores that sell goat milk and goat yogurt, and it tastes good.

REPRESENTATIVE ROSES asked whether the goat milk that is brought home is boiled or processed before drinking.

MR. ALSHAALAN answered he has never seen anyone boil it, so maybe it is boiled before. In response to Co-Chair Gatto, he confirmed that the goat milk is bought in a sealed container.

[1:41:23 PM](#)

CO-CHAIR GATTO closed public testimony after ascertaining that no one else wished to testify. He announced the bill was now before the committee.

REPRESENTATIVE FAIRCLOUGH noted that she spent summers on her aunt's farm milking cows. However, as heard in the testimony, there is a health issue if the milk is not processed in some manner for purification, especially for small babies. She said she is hesitant to support mass sales without some sort of labeling requirements or warning. When there are rules and people become sick, they can come back and sue, she cautioned. She said she is willing to listen to how the sponsor would ensure the safety of the general public and how there could be a label warning. She agreed that the argument for having options is compelling, but she is wondering how the state can provide that option while securing the health and welfare of both newborns and the community.

[1:45:35 PM](#)

CO-CHAIR GATTO stated he is okay with a willing buyer and a willing seller, as long as the buyer does not come back and say he or she got hurt by it and is going to sue the state because the legislature okayed it. He said he thinks it is incumbent on the committee to see that there is a warning label regarding the possibility of harmful bacteria, along with a statement that drinking the milk raw without boiling is done so at the person's own risk. He is also troubled by the fiscal note because he does not want the state to take responsibilities and money for something between a willing buyer and a willing seller. He related that in discussion with Representative Neuman some amendments have come forward to address the aforementioned questions.

[1:48:01 PM](#)

REPRESENTATIVE FAIRCLOUGH requested that someone address Representative Wilson's question regarding the definitions of homogenized and pasteurized.

CO-CHAIR GATTO understood that homogenized is when the milk is beaten so the droplets of cream remain in suspension and no longer separate out. Without homogenization, the cream will come to the top. Homogenizing does not affect the quality. In response to Representative Wilson, Co-Chair Gatto confirmed that homogenization is done without any heat. Pasteurization is when the milk is heated to a certain temperature for a brief period of time to kill most, but not all, of the bacteria, which is why it spoils even in a sealed container. He noted that sterile milk is sold in Europe and that sterile milk does not spoil. The milk is heated to a lesser temperature in pasteurization than for sterilization.

1:50:30 PM

PETER FELLMAN, Staff to Representative John Harris, Alaska State Legislature, stated he is a lifelong dairy farmer who grew up on fresh raw milk. He explained that batch pasteurization is when the [raw] milk is put into a container, stirred, has culinary steam on top, and is kept at 145 degrees [Fahrenheit] for 30 minutes. High temperature pasteurization is when the [raw] milk goes through a quick process at a higher temperature - he said he believes it is about 183 degrees [Fahrenheit] for 10 seconds.

MR. FELLMAN said it really is all about choice. Choosing to drink raw milk is a personal choice. Milk purchased from the shelf has a very good chance of having bovine somatotropin (bST), a growth hormone that is injected into commercial dairy cows. There is no choice for the consumer in this regard because the hormone is legal. The bST is used to increase a cow's milk production and is hard on the cow and shortens her life. Eighteen countries, including Canada, have outlawed the use of bST to encourage milk production.

MR. FELLMAN explained that milk is homogenized by pressurizing it in a machine to break down the fat into small globules and attach them to the protein so the fat will not separate out. The problem with all these fat globules now being attached to the protein is that the human body absorbs them all. Raw milk gives options because it can be skimmed and the fat can be used to make butter or sour cream, or it can be drunk whole. When milk is drunk whole, a percentage of that fat passes through the body because the fat globules are so large they cannot all be absorbed.

MR. FELLMAN pointed out that pasteurization does not kill all bacteria. For instance, certain strains of cheese bacteria,

mesophilic bacteria, survive at 180 degrees. There are also cold bacteria that can be introduced after pasteurization and go into the containers and then grow in the milk. It is not true that sour milk is bad for you. Cottage cheese, kefir, and yogurt are all a form of sour milk. The natural bacteria curdles the milk and creates lactic acid which kills all the bad bacteria, and this is why cottage cheese can be eaten. A lot of the people in Delta Junction are Ukrainian and they do not refrigerate their milk; they put it on the shelf for a week until it clabbers [curdles]. This is about choice, he reiterated. A person can choose which farmer to buy from and whether to boil the raw milk.

[1:56:46 PM](#)

CO-CHAIR GATTO said the key point is whether there should be a warning and should the warning be required.

MR. FELLMAN said disclosure is important in this process. There should be disclosure on a label or by some other means that the milk is unpasteurized and may cause health concerns. A disclosure makes it obvious that there is an agreement between two parties that made choices; disclosure protects both parties.

[1:57:59 PM](#)

CO-CHAIR GATTO inquired whether Mr. Fellman believes the state should regulate the sale of raw milk to an individual buyer.

MR. FELLMAN replied he does not believe so because he does not think it is possible to do. There are so many single cow and single goat situations around the state that he does not know how it could be regulated. The budget for DEC is just not big enough to go around and find and contact all the people who choose to have one cow and who have a neighbor that they sell the milk to.

[1:58:51 PM](#)

REPRESENTATIVE MARK NEUMAN, Alaska State Legislature, sponsor of HB 367, testified he met with Kristin Ryan, Director, Division of Environmental Health, Department of Environmental Conservation (DEC) regarding what is needed in HB 367 to satisfy the division. She conferred with her legal people and came up with the amendment labeled [25-LS1429\A.4, Bannister, 3/10/08].

REPRESENTATIVE ROSES moved that the committee adopt Amendment 1, labeled 25-LS1429\A.4, Bannister, 3/10/08, as follows [original punctuation provided]:

Page 1, line 1:

Delete "**raw milk and raw milk products**"

Insert "**milk, milk products, raw milk, and raw milk products**"

Page 2, line 9, following "selling"

Insert "**pasteurized**"

Page 2, line 29:

Delete "or to a restaurant, grocery store, or similar establishment,"

Page 3, line 1:

Delete "the state's"

Insert "any"

Page 3, line 1, following "sale of":

Insert "raw"

CO-CHAIR GATTO objected.

[2:00:05 PM](#)

REPRESENTATIVE NEUMAN explained that the amending language for page 1, line 1, is a clarification in the title so that it talks to all of the sections in the bill. The amending language for page 2, line 9, clarifies that there are two different issues - pasteurized milk and unpasteurized milk. The amending language for page 2, line 29, is in response to the committee's concern that there might not be a direct connection between the customer and the person selling the milk. This gives the customer the ability to go look at the farms so there is not a middle man and the customer has firsthand experience to see what is going on. This way, if there are any liability issues, there is no question on where to go. The amending language for page 3, line 1, will provide oversight by DEC, and ensure correct labeling by allowing DEC to approve the label that goes on any raw milk product.

[2:05:17 PM](#)

REPRESENTATIVE FAIRCLOUGH asked about the reason for changing the title language.

REPRESENTATIVE NEUMAN answered this amendment was upon the recommendation and legal advice of DEC.

REX SHATTUCK, Staff to Representative Mark Neuman, Alaska State Legislature, added that Legislative Legal and Research Services suggested the title change because Amendment 1 would make changes in existing statute for pasteurized milk and this would be a way to identify that.

[2:06:47 PM](#)

REPRESENTATIVE ROSES called attention to the portion of the amendment on page 3, line 1, that would delete "the state's" and insert "any". Would it be better to insert "all" instead of "any", he inquired, because "any" could mean that if there are several requirements only one would need to be met, but "all" would mean all of the requirements must be met.

MR. SHATTUCK responded the discussion centered around the word "any", but he suspects that Legislative Legal and Research Services would not have a problem with "all". In response to Co-Chair Gatto, Mr. Shattuck said this is specifically talking about the state.

REPRESENTATIVE NEUMAN said Ms. Ryan just indicated to him that she is agreeable to using the word "all".

REPRESENTATIVE SEATON stated he is unsure about deleting "the state's" because there could be a situation where a raw milk society is established that has requirements farmers must follow.

[2:09:35 PM](#)

CO-CHAIR GATTO suggested the five separate parts of Amendment 1 be treated as five separate amendments so an objection to one part will not stop all parts.

REPRESENTATIVE ROSES offered to withdraw Amendment 1. There being no objection, Amendment 1 was withdrawn.

[2:10:59 PM](#)

REPRESENTATIVE ROSES moved that the committee adopt Conceptual Amendment 2 as follows [original punctuation provided]:

Page 1, line 1:

Delete "**raw milk and raw milk products**"

Insert "**milk, milk products, raw milk, and raw milk products**"

There being no objection, Conceptual Amendment 2 was adopted.

[2:11:39 PM](#)

REPRESENTATIVE ROSES moved that the committee adopt Amendment 3 as follows [original punctuation provided]:

Page 2, line 9, following "selling"

Insert "**pasteurized**"

REPRESENTATIVE FAIRCLOUGH objected for clarification purposes. She said she is looking at the statute referred to on page 2, line 7, [AS 17.20.013], which addresses hormone labeling on milk and milk products.

The committee took an at-ease from 2:12 p.m. to 2:15 p.m.

[2:16:10 PM](#)

REPRESENTATIVE FAIRCLOUGH directed attention to AS 17.20.005 regarding the powers and duties of the commissioner, and asked whether insertion of the word "pasteurized" on page 2, line 9, as proposed by Amendment 3, would negatively affect importers of milk or in-state producers.

TINA OTTO, Assistant Attorney General, Natural Resources Section, Civil Division (Anchorage), said she spoke with the lead attorney on HB 367 and this attorney recommended inserting "pasteurized" because it clarifies that paragraph (4) is talking about pasteurized milk.

[2:17:50 PM](#)

REPRESENTATIVE FAIRCLOUGH understood that under current law all milk in Alaska requires pasteurization, and inserting the word "pasteurization" on page 2, line 9, would provide the exclusion in the new chapter that allows the sale of raw milk.

MS. OTTO said correct. It is saying [paragraph] 4 applies to pasteurized milk. So, in essence, it creates an exception for

raw milk, and that was the intention. She said she believes that is what is accomplished by Amendment 3.

[2:18:57 PM](#)

CO-CHAIR GATTO asked whether [paragraph] 4 is essential.

MS. OTTO requested time to think about the question.

KRISTIN RYAN, Director, Division of Environmental Health, Department of Environmental Conservation (DEC), explained that [the division] uses that section in the statute to regulate pasteurized milk, that is basically the adoption of the federal Pasteurized Milk Ordinance (PM&O). [The division's] milk regulations are about five pages long because the [the division] inherently adopts the federal regulations, which are much more in-depth. She said she would like to make the pitch that [the division] continue to have the ability to do that so it does not have to be done in regulation.

[2:20:37 PM](#)

REPRESENTATIVE SEATON inquired whether Amendment 3 would impinge on the labeling or allowance of the 60-day cheese ordinance or of the sale of milk to a dairy.

MS. RYAN responded that the adoption of the Pasteurized Milk Ordinance allows for those variances. She said she does not believe it would limit [the division] as long as it references the Pasteurized Milk Ordinance which considers the sixty-day aging of cheese to be an alternative to pasteurization. However, she will double check this.

REPRESENTATIVE FAIRCLOUGH withdrew her objection to Amendment 3.

[2:21:55 PM](#)

MS. OTTO, in response to Co-Chair Gatto, said she believes it would be important and worth keeping [paragraph] (4) and with the amendment of "pasteurized". It does make the most sense to insert pasteurized milk to make it clear that the exception is that raw milk would not fall under that. It is not duplicated effort.

CO-CHAIR GATTO surmised that, as a Department of Law representative, Ms. Otto is saying to leave [paragraph] (4) and the word "pasteurized" [as proposed by Amendment 3].

MS. OTTO answered yes.

There being no further objection, Amendment 3 was adopted.

[2:23:08 PM](#)

REPRESENTATIVE ROSES moved that the committee adopt Amendment 4 as follows [original punctuation provided]:

Page 2, line 29:

Delete "or to a restaurant, grocery store, or similar establishment,"

REPRESENTATIVE KAWASAKI objected. He asked whether "final consumer" is a term of art or a legal definition.

MS. OTTO responded she does not know whether ["final consumer"] is in DEC's statutes. However, regardless of whether the term is defined, there is enough of an understanding of what would be intended there - meaning being sold to whoever it is who is going to consume the product. It is enough of a commonly understood term that it can stand on its own.

[2:24:31 PM](#)

CO-CHAIR GATTO construed this to mean that the [raw] milk can travel through various agencies without any labeling until the final agency sells it to the final consumer, at which point labeling is required.

REPRESENTATIVE SEATON replied no.

REPRESENTATIVE KAWASAKI also replied no.

REPRESENTATIVE ROSES stated it is the opposite.

MS. OTTO said she works with the dairy industry and she does not believe this would put a restriction on a dairy producer selling raw milk to a processor because the processor is not the final consumer. That transaction always has occurred and will continue to occur. It is only if [the raw milk] is getting sold to somebody who is actually going to consume it as a raw milk product.

[2:25:20 PM](#)

REPRESENTATIVE KAWASAKI inquired how DEC would be able to regulate "final consumer".

MS. RYAN responded DEC's fiscal note speaks to its guess on how it would do this. [The department] looked at other states that have raw milk programs and those states are requiring testing before the product is sold. While [the department] has not seen those programs to be entirely successful, it feels that this is a minimum that it could do. It is similar to what [the department] does with other risky products like shellfish for which testing is required beforehand. Current regulations have a labeling mandate for raw milk that say raw milk cannot be sold off the farm unless it is labeled "unfit for human consumption" and has been denatured. Denatured means discolored so the raw milk looks different and cannot be confused with pasteurized milk.

[2:26:33 PM](#)

CO-CHAIR GATTO recalled the term denatured as meaning unfit for consumption and not something related to color.

REPRESENTATIVE WILSON asked whether denatured means the raw milk is dyed.

MS. RYAN replied the regulations specifically outline what dyes and what colors can be used. Technically, it does not change the quality of the milk because when the regulations were drafted the assumption was that the milk was being consumed by animals and the goal was not to make the milk unconsumable.

CO-CHAIR GATTO remarked that animals would not care about the color, but a consumer would not buy green or red milk.

REPRESENTATIVE SEATON commented that people in Alaska do currently have the opportunity to buy raw milk and do with it what they want, it is just that under current regulation the milk is a color other than white.

[2:29:12 PM](#)

REPRESENTATIVE WILSON inquired about the color and what kind of dye because there are dyes that are not good for humans or have unknown affects.

MS. RYAN stated [raw milk] must be labeled unfit for human consumption because it is not intended for human consumption.

[The raw milk] must also be decharacterized with an approved denaturant and the approved denaturants are: finely powdered charcoal, FD&C blue no. 1, blue no. 2, ultra-marine blue, FD&C green, and two varieties of red. None of those are harmful for humans.

[2:31:07 PM](#)

REPRESENTATIVE WILSON said she wants to make sure that this will not be done to the raw milk that people will be drinking.

MS. RYAN answered she was just explaining what the current regulations require. Under HB 367 the sale of raw milk would be allowed without those stipulations and those stipulations would have to be changed in the current regulation. The raw milk would be subject to the same testing program as for pasteurized milk. The DEC fiscal note is based on the required testing and certification of the farm.

[2:32:19 PM](#)

REPRESENTATIVE KAWASAKI asked whether determination of who the final user is would be incumbent upon the seller. For instance, someone could purchase 1,000 gallons of raw milk.

MS. RYAN responded she is not sure how this would be done through the existing regulations. She guessed it could be done by putting into regulation a restriction on the quantity that can be purchased.

[2:33:45 PM](#)

REPRESENTATIVE FAIRCLOUGH spoke in favor of Amendment 4 because it reduces the breadth of who the raw milk can be sold to and because, as stated by the sponsor and today's witnesses, it is between a willing buyer and a willing seller.

REPRESENTATIVE KAWASAKI said his only objection is not knowing what "final consumer" actually means. If it is an actual person, or a parent and a kid, or a family that is going to use the milk, then he would agree.

CO-CHAIR GATTO replied a "final consumer" could be a farmer that decides to throw [the raw milk] on the ground or a child of a mother - the mother would not be the "final consumer", it goes back to the child. The consumer of the product is the "final consumer".

REPRESENTATIVE EDGMON supported Amendment 4 and noted that HB 367 would require the principal display panel to "prominently" [state "that the raw milk product is not pasteurized and may cause health concerns"].

REPRESENTATIVE KAWASAKI withdrew his objection.

There being no further objection, Amendment 4 was adopted.

[2:35:34 PM](#)

REPRESENTATIVE ROSES moved that the committee adopt Amendment 5 as follows [original punctuation provided]:

Page 3, line 1:  
Delete "the state's"  
Insert "any"

REPRESENTATIVE SEATON objected. He said he believes the intent here is to replace only the word "the" with the word "any" so it would read "any state". He offered this as a friendly amendment.

REPRESENTATIVE WILSON objected to the friendly amendment to Amendment 5. She said the word "any" is the same as "any and all", so Amendment 5 is all right as-is because someone would have to do "any" of the requirements.

CO-CHAIR GATTO noted that the state cannot get out of federal requirements so this will be met regardless.

[2:36:43 PM](#)

MS. RYAN interjected she would need a legal opinion, but she thinks that "by removing the word 'state', federal requirements require pasteurization ...." [indiscernible due to paper rustling in microphone]

MS. OTTO added it is correct that federal requirements do require pasteurization. The federal requirements do not apply to intra-state commerce, meaning as long as it is done solely within the state of Alaska then the federal regulations do not apply. She said she has no opinion on the difference between "any" or "all", it is whatever the committee would like to do. If the intention in removing "the state's" is to mandate compliance with all federal and state requirements that would

apply to raw milk, then Ms. Ryan is correct that [the sale of raw milk] is not allowed under federal law.

[2:37:55 PM](#)

REPRESENTATIVE ROSES accepted the friendly amendment pending no objection.

REPRESENTATIVE WILSON removed her objection to the friendly amendment to Amendment 5. She offered her opinion that deleting "the state's" is fine because [subsection] (b) [page 3, line 3,] states, "This section does not apply to a sale that is governed by federal law."

[2:38:31 PM](#)

CO-CHAIR GATTO inquired whether there are any federal statutes that would apply to this.

MS. RYAN stated that adoption of [Amendment 3] clarifies that the Pasteurized Milk Ordinance only applies to pasteurized milk. She said she thinks the committee has now separated the two: there is pasteurized milk that will be sold in the state that will have to comply with the federal Pasteurized Milk Ordinance and there is raw milk that will be sold in the state for which federal laws do not apply.

CO-CHAIR GATTO noted that Amendment 5 has not yet been officially amended.

[2:39:26 PM](#)

REPRESENTATIVE SEATON asked whether an unintended hole has been created by separating out pasteurized milk that is regulated by federal requirements and raw milk that is regulated by the state. For instance, could a preschool be considered a "final consumer"?

MS. RYAN responded she has some concern with "A person" on page 2, line 28, because it does not restrict who the initial seller is and could therefore be anybody. It only restricts the final consumer. If that is the committee's intent, then both of these ends need to be closed.

[2:40:42 PM](#)

REPRESENTATIVE SEATON inquired whether [the bill as amended] creates a situation in which the "final consumer" could be a daycare provider instead of the legal guardian of a child or the person consuming the milk themselves.

MS. RYAN replied she thinks that without "final consumer" defined there is wiggle room.

MS. OTTO answered she cannot say that that scenario would be precluded under the language on page 2, lines 28-29. The department can further define "final consumer" when it passes its regulations and further place some limitations through the regulatory process on how this program is going to operate.

[2:42:45 PM](#)

REPRESENTATIVE WILSON said she looks at "A person" on page 2, line 28, as being the seller. It is the seller that is being restricted, and to sell raw milk to someone that seller must prominently state that it is raw milk and follow any other requirements. The restriction is only on the seller, not the "final consumer".

CO-CHAIR GATTO responded correct. "When we say 'A person', we want to make sure we are not saying the producer and the final consumer because there might be 18 layers in between. We just want to say ... the person giving it to the end user has the responsibility." He said he thinks that is what is said by the term "A person".

[2:44:11 PM](#)

REPRESENTATIVE ROSES returned to discussion of whether to adopt Representative Seaton's friendly amendment to Amendment 5. He reminded the committee he had said that, without objection, he would accept it. The term "any state requirements" makes it clear that it is state requirements, not any municipal requirements, because the legislature only has the right to deal with state requirements.

REPRESENTATIVE SEATON restated his amendment to Amendment 5: "Where it says delete, take out the word 'the' and [take out] the ''s'." Thus, page 3, line 1, would read, "complies with any state requirements".

[2:45:45 PM](#)

REPRESENTATIVE EDGMON argued that the term "any" is wider than "any state" because "any" would apply to both state and local should a municipality come up with something in the future.

CO-CHAIR GATTO surmised that Representative Edgmon is saying to delete "the state's" so page 3, line 1, would read, "complies with requirements for the sale of ...."

REPRESENTATIVE EDGMON said yes, as Amendment 5 suggests.

[2:46:37 PM](#)

REPRESENTATIVE ROSES said he does not want to get into the local aspect because there could be a situation where the seller lives in one jurisdiction and the buyer lives in another jurisdiction that has different requirements. The committee is dealing with state law and should stick to state law and let someone else deal with local law.

REPRESENTATIVE SEATON agreed with Representative Roses. He said that if "state" is taken out, the resulting term, "any requirements", could be interpreted to apply to requirements established by a milk cooperative and this would put the state in the position of having to enforce those.

There being no objection, the amendment to Amendment 5 was adopted.

There being no objection, Amendment 5, as amended, was adopted.

[2:48:39 PM](#)

REPRESENTATIVE ROSES moved that the committee adopt Amendment 6 as follows [original punctuation provided]:

Page 3, line 1, following "sale of":  
Insert "raw"

There being no objection, Amendment 6 was adopted.

[2:49:10 PM](#)

REPRESENTATIVE SEATON moved that the committee adopt Amendment 7, labeled 25-LS1429\A.1, Bannister, 3/6/08, as follows [original punctuation provided]:

Page 2, line 28:

Delete "A"

Insert "Except as provided in (b) of this section, a"

Page 3, following line 2:

Insert a new subsection to read:

"(b) A raw milk product may not be sold under (a) of this section if the animal that produced the raw milk for the raw milk product has ever been treated with antibiotics. In this subsection, "treated with antibiotics" includes being injected with antibiotics or being fed antibiotics."

Reletter the following subsections accordingly.

REPRESENTATIVE WILSON objected. A lot of the feed automatically has antibiotics in it these days, she said. She requested Mr. Fellman's opinion.

[2:50:46 PM](#)

MR. FELLMAN stated this is a big issue. There are antibiotic-resistant strains of bacteria all around, not only potentially in milk, but in meat, spinach, salad, and just about everything. Any antibiotics that lactating cows are treated with are specifically labeled for lactating cows and a prescription must be gotten from a veterinarian. All antibiotics labeled for lactating cows have a withdraw time, so the label specifically states how long the milk must be discarded before the antibiotic will be out of the milk. Generally, there are no antibiotics in lactating cattle feed.

CO-CHAIR GATTO asked what is meant by "before the antibiotic will be out of the milk".

MR. FELLMAN said there are several ways to treat a cow. An injection of penicillin has the potential of going through the cow's system and into her milk. There are also inter-mammary treatments such as infusions.

MR. FELLMAN return to the topic of feed. He said calf milk replacer can be purchased with or without antibiotics in it. However, he repeated, there are no antibiotics in the feed for lactating cattle.

[2:53:05 PM](#)

CO-CHAIR GATTO commented that whether trace amounts or any amounts, it cannot be escaped.

MR. FELLMAN replied correct. There is a test that any farmer can purchase to check milk samples for the tolerable limit. The FDA has regulations for how many parts per million are acceptable for each particular antibiotic. Every antibiotic is labeled with a withhold time - some are six milkings, some are twelve or more milkings.

[2:53:53 PM](#)

REPRESENTATIVE SEATON said he is offering Amendment 7 because of the testimony from the medical community on 3/3/08. The purpose of pasteurization is to kill human pathogens and the pasteurization will kill them whether they are or are not antibiotic-resistant bacteria. Whether the raw milk is boiled at home or commercially pasteurized, it is the same thing. The problem with antibiotic treatment is that antibiotic-resistant bacteria are created that will remain in the cow or other animal that is treated. It is not the question of getting the antibiotic out of the cow's system, it is the question of antibiotic-resistant bacteria that will be in the milk and passed along to the final consumer. Most of the milk consumed in Alaska is consumed by kids. As a public health matter, the passing of antibiotic-resistant bacteria to kids cannot be allowed, and that is what Amendment 7 is trying to do.

[2:57:17 PM](#)

CO-CHAIR GATTO inquired whether Representative Seaton wants to follow Amendment 7 exactly as written or does he feel this should be part of the labeling such that the label must state whether the product may or may not contain antibiotics.

REPRESENTATIVE SEATON answered he is not concerned about the antibiotics; the dairy industry has a fine system in this regard. The problem is the antibiotic-resistant flora that is left in the animal that will be in the [raw] milk from that time on according to testimony from either the state veterinarian or epidemiologist, and this will be passed on to kids.

[2:58:27 PM](#)

REPRESENTATIVE WILSON asked Ms. Ryan to address whether there are any unforeseen consequences in relation to Amendment 7 that the committee is not realizing.

MS. RYAN said the committee has heard from dairy farmers and antibiotics are used. She said she is still reviewing Amendment 7 since today is the first she has seen it, but she thinks it is pretty clear that it would restrict all milk.

CO-CHAIR GATTO commented that the word "ever" in Amendment 7 is a pretty far reaching word.

[2:59:40 PM](#)

REPRESENTATIVE ROSES inquired what DEC's current practice is when antibiotics are found in milk.

MS. RYAN explained that the Pasteurized Milk Ordinance under which the state is operating requires that milk from a treated cow [not be sold] within a certain range depending on the antibiotic. [The division] tests randomly for that at its lab and occasionally does find that and [the division] requires a recall of the product if it has been sold before the test results come back.

[3:00:31 PM](#)

REPRESENTATIVE ROSES asked what happens to the farmer who knowingly and willingly sells milk that he or she was not supposed to.

MS. RYAN responded [the division] has a variety of tools to penalize individuals for breaking the laws, and it varies depending on the severity. [The division] can fine and revoke permits. If [the division] feels the intent was criminal, it can take that route as well. In further response to Representative Roses, she affirmed that a seller would be penalized if the milk was supposed to be dumped and it was not.

REPRESENTATIVE ROSES inquired whether that same statute would apply to the raw milk product if Amendment 7 does not pass. Would the anticipation still be the same when [the division] writes the regulations that the [raw] milk from any antibiotic-treated animals could not be passed on to the consumer [for the required time period for the antibiotic], he asked.

MS. RYAN replied she would have to look it up, but she assumes [the division] would try to model its existing program for pasteurized milk. So, yes, there would be a requirement that antibiotic-treated [raw] milk not be sold, and that would require testing and monitoring on [the division's] part.

[3:01:51 PM](#)

REPRESENTATIVE ROSES commented that whether or not Amendment 7 passes, the raw milk would still have to be tested for antibiotic in order to ensure that the seller is complying. So, the amendment does not change the requirement for DEC to do random testing, nor does it require a change on the part of the person who is selling the raw milk product.

MS. RYAN said the problem she sees is how [the division] would know whether an animal had been treated with antibiotic two years prior.

CO-CHAIR GATTO directed the committee to the fact sheet from the state veterinarian which addresses this question. He announced that HB 367 will be held over.

[3:03:23 PM](#)

REPRESENTATIVE FAIRCLOUGH asked whether Representative Neuman's intent is to allow dairies to sell raw milk wholesale, retail, or both.

REPRESENTATIVE NEUMAN responded it is his intent to allow a dairy farmer, being the person, to sell raw milk, unprocessed milk to somebody who wants to buy it - that consumer. That consumer could simply be somebody who comes to visit and buys it for their family. Amendment 7 would gut HB 367. Whether an animal had "ever" been given antibiotic could never be proven.

[3:04:41 PM](#)

REPRESENTATIVE FAIRCLOUGH inquired whether "the person" [page 2, line 31] could be substituted for either the word "dairies" or "producers". That is why she asked the wholesale/retail question, she said.

REPRESENTATIVE NEUMAN replied yes.

[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.