

**Testimony Presented To the Connecticut Environment Committee by the
Connecticut Department of Agriculture**

3/20/15

S.B. 360 AN ACT AUTHORIZING HERD SHARES WITHIN THE PRODUCTION OF MILK AND RAW MILK PRODUCTS AND THE MANUFACTURE OF CHEESE FOR PERSONAL CONSUMPTION.

The Department of Agriculture opposes this bill.

The Department's opposition to S.B. 360 is based on public health risks associated with the consumption of unregulated raw milk and ambiguous legal implications of animal ownership if this proposal were enacted into law. It is also based on the fact that raw milk and certain raw milk products that are produced, processed and sold under the Department's regulatory oversight are currently available to consumers making the provisions proposed in S.B. 360 unnecessary. There is a process to become licensed and there are currently 18 retail raw milk producers, producing approximately 260,000 gallons of Retail Raw Milk annually.

S.B. 360 exempts the sale of raw milk and raw milk products from regulations relative to sanitation, animal health and routine product testing governing production, processing, labeling and distribution if the final consumer has an ownership interest in the animal or herd that produced the raw milk. The role of raw milk and other unpasteurized dairy products is well documented. Pathogens such as *Escherichia coli* O157, *Campylobacter jejuni*, and *Salmonella* can contaminate milk during the milking process because they are shed in the feces of healthy-looking dairy animals, including cows and goats. Infection with these pathogens can cause severe, long-term consequences, such as hemolytic uremic syndrome, which can result in kidney failure, and Guillan-Barré syndrome, which can result in paralysis. These infections are particularly serious in those who are very young, very old, or who have impaired immune systems.¹

The CDC reports that from 2007 to 2012 there were 81 reported outbreaks of infections due to the consumption of raw milk resulting in 979 illnesses and 73 hospitalizations. During this time the number of outbreaks increased from 30 in the three year span 2007-2009 to 51 in 2010-2012.² One such outbreak occurred in Connecticut in 2008 in which a total of 14 cases (7

¹ CDC. The Ongoing Public Health Hazard of Consuming Raw Milk. Letter to State and Territorial Epidemiologists and Public Health Veterinarians. May 9, 2014

² Emerging Infectious Diseases. Increased Outbreaks Associated with Nonpasteurized Milk, United States, 2007 - 2012. www.cdc.gov/eid. Vol. 21, No. 1, January 2015

confirmed, 7 probable) due to *Escherichia coli* O157 were identified. Of the 7 confirmed cases, 5 were primary infections and involved raw milk consumption. A secondary infection occurred in a 12 month-old sibling of a person with a primary infection. A tertiary infection occurred in a 2 year-old child who had frequent close contact with the child with a secondary infection. The children with secondary and tertiary infections *did not consume raw milk*. Five persons were hospitalized, four of whom were children less than 10 years of age who developed hemolytic uremic syndrome (HUS) and required dialysis.³

In 2005, an outbreak occurred in Clark County, Washington caused by *Escherichia coli* O157 linked to the consumption of raw milk from a farm participating in a cow share program in which 45 families held shares. Eighteen cases were identified. Among the 18 patients, 17 (94%) reported diarrhea, 13 (72%) bloody diarrhea, and 13 (72%) abdominal cramps. Five patients (28%), aged 1--13 years, were hospitalized; four of these had hemolytic uremic syndrome (HUS). Seventeen patients were farm shareholders or children of shareholders; one patient, a child aged 10 years, was a friend of a shareholder.⁴

The Department also has serious concerns about the legal implications of the contractual agreements⁵ that would be executed pursuant to S.B. 360 to “(A) Acquire an ownership interest in a milk-producing animal, (B) agree to pay or reimburse another person or otherwise accept financial responsibility for the care and boarding of such milk-producing animal, and (C) is entitled to receive a share of the raw milk produced by such milk-producing animal”.

Obviously, the overriding purpose of the “cow share” agreements as proposed is for the distribution and acquisition of raw milk. The proposed legislation does not delineate other rights or responsibilities coincident with animal ownership. For example, the proposal does not delineate the shareholders’ authority or responsibility in such matters as the appropriate care and health of the animal(s) or compliance with state animal health and animal cruelty laws. As written, S.B. 360 does not make clear what parties would be responsible in a regulatory enforcement action involving animals under shared ownership.

S.B. 360 also does not address whether or not a shareholder would be required to own a share of all animals within a milk producing herd if he or she were to acquire raw milk comingled from all animals within a herd. It does not specify that if a person owns a share in only one animal

³ Connecticut Epidemiologist. Outbreak of *E. coli* O157 Associated with Raw Milk Consumption – Connecticut, 2008. Vol. 29, No. 2, February 2009.

⁴ MMWR Weekly. *Escherichia coli* O157:H7 Infection Associated with Drinking Raw Milk – Washington and Oregon, November–December 2005. 56(08); 165-167. March 2, 2007.

<http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5608a3.htm>

⁵ <http://www.foodsafetynews.com/2009/11/skirting-the-law-with-cow-share-agreements/#.VQm96jrD-ic>

within a herd that access to raw milk is limited to raw milk produced only by that specific animal in which he or she owns a share.

S.B. 360 does not address liability issues when milk produced by animal that is in a contractual "shared animal ownership agreement" causes an illness. It appears this bill prevents the Department from taking any action against any of the parties and the Department would likely not investigate any complaint of illness when there is a contractual "shared animal ownership agreement".

S.B. 360 is not clear what how "shared ownership" applies to all milk producers. As written, the Department believes any milk producer, Retail Raw Milk or milk for pasteurization, could use this provision to sell a fractional ownership interest in one or more milk producing animals to avoid licensing and regulatory oversight.

Finally, S.B. 360, as proposed, would more appropriately amend C.G.S. §22-173a and not. C.G.S. §22-173a authorizes the regulatory requirements and licensing of retail raw milk producers. C.G.S. §22-129 is the statute that the Department relies on when it takes action to stop or prevent the sale of adulterated milk and milk products. This statute is used mostly to issue stop sale notices when product quality violations are detected by laboratory analysis. Occasionally it is used to stop the sale of milk when adulterated by the presence of antibiotic residues, allergen contamination, incomplete pasteurization if the product is a pasteurized product or the presence of human pathogens. Currently milk produced for personal use is exempted, as it should be. The Department is concerned that the amendment to C.G.S. §22-129 as proposed in S.B. 360 will interfere with its ability to take enforcement actions with respect to adulterated products.