



88 Beech Street, Essex Junction, VT 05452
(802) 878-6888 voice • www.vtvets.org • kathy@vtvets.org

H. 426, an act relating to the expansion of raw milk sales
Tuesday, March 24, 2015
Dr. Kent E Henderson
Vermont Veterinary Medical Association Government Relations Committee

Good afternoon Chair Partridge and the honorable members of the Vermont House of Representatives Committee on Agricultural and Forestry Products.

My testimony will address H. 426, an act relating to the expansion of raw milk sales; and bring your attention to shortcomings in the bill which require further review to ensure that consumer protection remains as the top priority in legislation which allows unpasteurized milk sales in Vermont.

As a brief introduction, I recently completed my 40th year of service and am an owner/practitioner at Northwest Veterinary Associates, Inc. (www.nwvet.com), a six person dairy-exclusive veterinary clinical practice in St. Albans, which serves the northwest corner of VT and eastern Clinton Co., NY.

I would like to present constructive criticism and identify topics (by page number and line in the bill) for future examination and debate. On several topics, I will refer to the Indiana State Board of Animal Health Report on the Issue of Selling Unpasteurized Milk to Consumers which was prepared for the Indiana General Assembly in 2012. You were provided this report last week by Dr. Joe Klopfenstein.

Page 4, lines 6-10 - Eliminates annual Brucellosis and 1B testing and proposes a three year span between tests. In practice, this proposed requirement is asking for a "once in a lifetime test" because three years is the average milking lifetime of the majority of Vermont cows, so many animals could go untested because they left the herd before they were tested. And in the case of a TB or Brucella-infested animal, she probably would leave the herd quickly and stand a good chance of never being detected. In my professional opinion, when every animal enters the milking string for the first time, an individual TB and Brucella test should be required followed up with annual individual cow TB testing and quarterly Brucella ring milk tests.

Page 4 lines 15-17 - Requires a negative antibacterial residue test. This portion needs to spell out the specific test that the state requires, proper record keeping and retention of treatments and residue test clearance, and oversight that these technically challenging tests are being performed accurately.

Page 5, lines 4-7 and Page 6, lines 4-8 - The warning to immune-challenged persons should not be removed. From personal experience, my sister-in-law who survived stage 3 breast cancer and is maintained on an extremely low white blood count visited Shelburne Farms. She was going to consume a raw cheese product sitting out on a sample tray for pass by shoppers and luckily saw the label and was prevented from taking an unnecessary health risk.

Indiana Board of Animal Health, Appendix 5, pages 4 and 12 - Provides a review of some labels for twenty permitted states and shows many states require labels that read similar to the current Vermont label. It is

difficult to say that Vermont producers are being held to an oppressive standard after viewing others states' label language.

In fact, some additions to the label should be considered that would indicate the shelf pull date, may not be resold, and that the state does not endorse this product (to protect the state from liability.)

Page 7, line 3 - The milk quality testing frequency requirement of bimonthly tests should remain the minimum because sanitation problems happen suddenly and too much poor quality product could be allowed to reach consumers by relaxing this standard. On smart phones and computers, my progressive dairy clients check their milk quality test on a daily basis so they can take immediate action when trouble occurs. Consumer protection must come before producer convenience when dealing with this highly perishable product.

Indiana Board of Animal Health, Appendix 5, pages 9-10 - Shows a wide range of frequency of testing standards from Utah's requirement to test every load to South Carolina's requirement of six months (be sure to note that South Carolina tries to compensate for infrequent testing by requiring specific human pathogen testing.)

Page 7, line 19 - Milk Quality standard of 225,000 somatic cell count should not be raised to 400,000. Allowing SCC count to increase allows more proteolytic enzyme and milk fat breakdown that will reduce shelf life, flavor, and consumer satisfaction. Vermont's entire dairy herd averages below 190,000 and most of this milk will be pasteurized; raw milk producers should be held to the state average, at least.

Indiana Board of Animal Health, Appendix S, pages 7-8 - Shows the wide range of requirements across several states, with Vermont protecting its consumers well at one of the lowest levels. (SCC is a hot topic in international dairy sales and many European and Asian countries restrict USA imports by requiring 250,000.)

Page 8, lines 15-18 - One failed milk quality test indicates a breakdown that should be corrected immediately for a product that will not be pasteurized. By allowing two failed tests over a four month period, there is a strong possibility that the consumer could be exposed to a poor quality product for four months if the frequency of testing is extended to once a month. The producer should be put on notice by the Agency of Agriculture after the first failed test. Likewise, allowing three failed tests over a five month period before ordering a "cease and desist" would expose the consumer to a poor quality product for an unacceptable time. These problems can be resolved quickly, so there is no excuse for not shutting down after the second violation in a row.

And let me bring your attention to Windsor Dairy, a 2000 head organic herd in Colorado which will not release a load of raw milk for processing until it has passed four separate PCR tests for human pathogens; and Pennsylvania, South Carolina, Utah, and Washington which are performing human pathogen testing at their regularly scheduled milk quality tests. They are taking an extra protective step for their consumers that can help their raw milk industry grow with less risk of disease and liability.

Page 9, lines 14-18 and page 10, lines 5-7 - CSA and Farmer's Markets sales traceability are not spelled out well enough to be of much value in a food borne illness investigation. Washington is the only state identified in the Indiana BOAH study that is allowing farmers' market sales.

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Pages 11-12, lines 13-20 and 1-20 - Nationwide 18 of the 30 states that permit the sale of raw milk restrict sales to the farm where the product was produced. The remaining 12 states permit off the farm sales.

Page 12, lines 19-20 - Product liability is handled with a short two line statement that does not specifically require the producer or retailer to carry commercial insurance that would compensate consumers for specific food borne pathogens from the consumption of raw milk products. In fact, the recent Rural Vermont survey of producers found that 49% of survey respondents do not carry liability insurance that would help one of their customers in the event of a food borne illness occurrence.

Because I carry professional liability insurance, my veterinary clients understand that there is a level of protection that comes along with my technical and intellectual service. It is hard to understand that the raw milk consumer does not deserve the same protection from the producer and retailer.

In closing, I wish to reiterate that WMA is opposed to H. 426 in its current form and does not feel that it meets the stated goals of protecting consumer health and allowing for sustainable growth of the industry by allowing expanded volume sales, labelling changes, eliminating individual animal testing or adjusting milk quality test requirements.

Dr. Kent Henderson
Northwest Veterinary Associates, Inc.
6 Fairfield Hill Road
St. Albans, VT 05478
802-524-3222
hugamoo@comcast.net
www.nwvetvt.com