



# Farm-to-Consumer Legal Defense Fund®

Legal Representation ♦ Political Action ♦ Education

March 13, 2020

Before the Kansas House Agriculture Committee  
Written Testimony of the Farm-to-Consumer Legal Defense Fund  
Proponent of S.B. 308 as currently drafted.  
House Agriculture Committee hearing date: March 16, 2020

## **Introduction**

The Farm-to-Consumer Legal Defense Fund (FTLCDF) represents independent farmers and consumers in Kansas and elsewhere to support the viability of small farms. FTCLDF files this written testimony on behalf of the organization and its members. The FTCLDF supports S.B. 308 as passed by the Kansas State Senate with no further amendments.

Currently, raw milk can lawfully be sold directly from the farm in Kansas, and consumer demand for this healthy natural product continues to grow. While there had been no specific incident or reported illness from raw milk to justify it, the Kansas Senate recently passed S.B. 308 to regulate sales and advertising of raw milk. During the Senate process, the Kansas Senate Agricultural Committee rejected amendments that would further regulate sales and advertising, which were unnecessary therefore not adopted by the committee nor the full Kansas Senate. S.B. 308 is acceptable in its current form to FTCLDF. Further regulation of this safe product, with no evidence of recent problems or concerns, is unnecessary and would be burdensome to small farmers who are so important to this state.

## **Procedural history:**

Farms in Kansas have been producing, and consumers enjoying, raw milk for decades and much longer. Unlike pasteurized milk, raw milk

is easily digestible and provides excellent nutritional value. Many consumers and experts agree that raw milk can decrease the rate of asthma, allergies, and some respiratory problems. While on-farm sales have been lawful, until recently, the state had prohibited the advertising of the product off farm. On November 6, 2019, the Kansas state court ruled this prohibition unconstitutional. Only after this ruling has the state introduced the pending legislation.

It is our understanding that Section 1 of the legislation passed in the Senate reads as follows:

*Be it enacted by the Legislature of the State of Kansas:*  
New Section 1. (a) The on-farm retail sale of milk or milk products shall be lawful, so long as each container of **unpasteurized** raw milk sold or offered for **bears** a label that *is* clearly **visible and** states the following **or its equivalent**: "This product contains raw milk that is not pasteurized.

(b) Any person who engages in the on-farm retail sale of milk or milk products may advertise such milk or **milk products**. **Any** such advertisement **shall not be false or misleading and shall state that such milk or milk products are either raw or unpasteurized**.

If such advertisement is in print or other written or visual form, this statement shall be **clearly visible**.

**FTCLDF Position on labeling requirement:** FTCLDF and its members believe no labeling is necessary. However, S.B. 308 in its current form requiring a label on the container stating that the product is unpasteurized raw milk provides the consumer with information without being overly burdensome to the farmer.

**FTCLDF Position on advertising:** S.B. 308 is likely the result of litigation that found the state's regulation of advertising of raw milk to be unconstitutional, and thus only minimal restrictions should be made. The simple requirement that advertising not be false or misleading and that the product is raw or unpasteurized is reasonable without being unduly burdensome or violating farmers' rights and provides consumers with sufficient information. Placing greater restrictions on advertising may, be in violation of the state court's recent determination. Moreover, placing detailed and onerous

advertising requirements on farms, often small family farms selling from the farm, is unnecessary and would add to the difficulty in maintaining small Kansas farms. That said, the FTCLDF can accept the requirement stated in the final S.B. 308 passed by the Senate.

## **Rationale for Positions:**

### **Raw Milk is a Safe and Nutritious Product**

- **Published, peer-reviewed scientific studies show health benefits from raw milk.** Multiple studies have found that drinking “farm” (raw) milk protects against asthma and allergies.<sup>1</sup> A 2015 study found that raw milk consumption reduced the risk of rhinitis, respiratory tract infections, ear infections, and fever by around 30% compared to the consumption of ultra-pasteurized milk.<sup>2</sup> Pasteurization denatures proteins, inactivates enzymes, and destroys heat-sensitive vitamins.

- **Raw milk is not a high-risk food.**

Nationwide, there are an average of 134 illnesses per year attributed to raw milk, out of an estimated nine and a half **million** people who drink it. There were similar numbers of illnesses attributed to pizza (104 illnesses/yr avg) and far more to deli sandwiches (243 illnesses/yr avg).

- **The Center for Disease Control data shows few Kansas illness caused by raw milk.**

During the period 1998 – 2017, the CDC data indicates that there were 16 illnesses attributed to raw milk or cheese in Kansas, and zero hospitalizations. Compared to other food illnesses, this is quite low and poses little risk to Kansas consumers.<sup>3</sup>

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<sup>1</sup> See Riedler, J. et al. 2001. Exposure to farming in early life and development of asthma and allergy: a cross-sectional survey. *Lancet* 358:1129-33. Perkin, M.R. and D.P. Strachan. 2006. Which aspects of the farming lifestyle explain the inverse association with childhood allergy? *J Allergy Clin Immunol* 117(6):1374-8. Waser, M. et al. 2006. Inverse association of farm milk consumption with asthma and allergy in rural and suburban populations across Europe. *Clinical and Experimental Allergy* 37:661-670. Perkin, M.R. 2007. Unpasteurized milk: health or hazard? *Clinical and Experimental Allergy* 37:627-630.

<sup>2</sup> G. Loss et al., Consumption of unprocessed cow’s milk protects infants from common respiratory infections, *J. of Allergy and Clinical Immunology* 134: 56-62 (2015).

<sup>3</sup> <https://www.Cdc.gov/norsdashboard>

- **Any further legislation will harm raw milk producers and consumers.**

Farmers in general are struggling to make ends meet. The increased demand by consumers for farm fresh products, including raw milk, has been a lifeline to many farmers. Members of the Farm-to-Consumer Legal Defense Fund emphasize the need for this business to stay afloat. Kansas legislation should support small farmers' ability to make a living and contribute to the local economy. Furthermore, many consumers seek out raw milk for the health benefits cited above. To further restrict production or advertising of this healthy product would interfere with consumers' ability to find healthy food of their choice

## **Conclusion**

For the reasons stated herein, the FTCLDF and its members support S.B. 308 in the form passed by the Kansas Senate.

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