

2023 HOUSE AGRICULTURE

HB 1255

2023 HOUSE STANDING COMMITTEE MINUTES

Agriculture Committee
Room JW327C, State Capitol

HB 1255
1/19/2023

Relating to the definition of milk.

Chairman Thomas called to order 10:00 AM

Members present: Chairman Thomas, Representatives Beltz, Christy, Finley-DeVille, Fisher, Headland, Henderson, Kiefert, Olson, Prichard, Schreiber-Beck, Tveit. VanWinkle.
Member absent: Representative Finley-DeVille.

Discussion Topics:

- Colostrum
- Natural animal milk
- Milk marketing
- Dairy marketing

In favor:

Representative Dawson Holle, District 31, Prime bill sponsor, #14449
Kenton Holle, ND Milk Producers Association (no written testimony)
Pete Hanebutt, North Dakota Farm Bureau (no written testimony)
Julie Ellingson, North Dakota Stockman's Association (no written testimony)
Matt Perdue, North Dakota Farmers Union (no written testimony)

Neutral:

Nathan Kroh, Dairy Coordinator for the ND Department of Agriculture ("NDDA"), #14404
Samuel Wagner, Dakota Resource Council #14247

Additional written testimony:

LeAnn Harner, Small dairy goat operator, #14455

Chairman Thomas adjourned the meeting 10:35 AM

Diane Lillis, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Agriculture Committee
Room JW327C, State Capitol

HB 1255
2/2/2023

Relating to the definition of milk.

Chairman Thomas called to order 11:26 AM

Members present: Chairman Thomas, Representatives Beltz, Christy, Finley-DeVille, Fisher, Headland, Henderson, Kiefert, Olson, Prichard, Schreiber-Beck, Tveit. VanWinkle.

Discussion Topics:

- Committee Action

Representative Prichard moved to adopt the amendment, #23.0534.02001

Representative Fisher seconded.

Roll call vote:

| Representatives | Vote |
|---------------------------------------|-------------|
| Representative Paul J. Thomas | Y |
| Representative Mike Beltz | Y |
| Representative Josh Christy | Y |
| Representative Lisa Finley-DeVille | Y |
| Representative Jay Fisher | Y |
| Representative Craig Headland | Y |
| Representative Donna Henderson | Y |
| Representative Dwight Kiefert | Y |
| Representative SuAnn Olson | Y |
| Representative Brandon Prichard | Y |
| Representative Cynthia Schreiber-Beck | Y |
| Representative Bill Tveit | Y |
| Representative Lori VanWinkle | Y |

Motion passed 13-0-0

Representative Henderson moved do pass as amended.
Representative VanWinkle seconded.

Roll call vote:

| Representatives | Vote |
|-------------------------------|-------------|
| Representative Paul J. Thomas | Y |
| Representative Mike Beltz | Y |
| Representative Josh Christy | Y |

| | |
|---------------------------------------|---|
| Representative Lisa Finley-DeVile | Y |
| Representative Jay Fisher | Y |
| Representative Craig Headland | Y |
| Representative Donna Henderson | Y |
| Representative Dwight Kiefert | Y |
| Representative SuAnn Olson | Y |
| Representative Brandon Prichard | Y |
| Representative Cynthia Schreiber-Beck | Y |
| Representative Bill Tveit | Y |
| Representative Lori VanWinkle | Y |

Motion passed 13-0-0

Representative VanWinkle will carry the bill.

Chairman Thomas adjourned the meeting 11:31 AM

Diane Lillis, Committee Clerk

February 2, 2023

JK
2-2-23

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1255

Page 1, line 20, remove the second "and"

Page 1, line 21, after "donkeys" insert "; and

d. Camlidae, including llamas, alpacas, and camels"

Page 2, line 14, after the fourth comma insert "butter,"

Page 4, line 7, remove the second "and"

Page 4, line 8, after "donkeys" insert "; and

d. Camelidae, including llamas, alpacas, and camels"

Page 6, line 22, remove the second "and"

Page 6, line 23, after "donkeys" insert "; and

d. Camelidae, including llamas, alpacas, and camels"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1255: Agriculture Committee (Rep. Thomas, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1255 was placed on the Sixth order on the calendar.

Page 1, line 20, remove the second "and"

Page 1, line 21, after "donkeys" insert "; and

d. Camlidae, including llamas, alpacas, and camels"

Page 2, line 14, after the fourth comma insert "butter,"

Page 4, line 7, remove the second "and"

Page 4, line 8, after "donkeys" insert "; and

d. Camelidae, including llamas, alpacas, and camels"

Page 6, line 22, remove the second "and"

Page 6, line 23, after "donkeys" insert "; and

d. Camelidae, including llamas, alpacas, and camels"

Renumber accordingly

2023 SENATE AGRICULTURE AND VETERANS AFFAIRS

HB 1255

2023 SENATE STANDING COMMITTEE MINUTES

Agriculture and Veterans Affairs Committee Fort Union Room, State Capitol

HB 1255
3/9/2023

A bill relating to the definition of milk.

10:30 AM Chairman Luick called the meeting to order. Members present: Chairman Luick, Vice Chairman Myrdal, Senator Lemm, Senator Hogan, Senator Weston, Senator Webb.

Discussion Topics:

- Compliance with national standards
- Consume dairy products from healthy animals.
- No rebranding of milk
- Expansion of definition of milk
- Labeling of milk products

10:30 AM Representative Dawson Holle, North Dakota Legislature, District 31, testified in favor of HB 1255. #23198

10:32 AM Pete Hanebutt testified on behalf of North Dakota Farm Bureau Lobbyist, in favor of HB 1255. No written testimony.

10:38 AM Matt Perdue, testified on behalf of North Dakota Farmers Union Members, and encouraged a Do pass on HB 1255. #23055

10:40 AM Andrew Holle, Milk Producers Association testified in favor of HB 1255. No written testimony.

10:42 Senator Myrdal asked Nathan Crow, Program Coordinator for the North Dakota Agricultural Commission to answer questions from the committee.

10:45 Sam Wagner, Dakota Resource Council, testified online and would like to have an amendment added to HB 1255. #22990

10:53 Julie Ellingson, North Dakota Stockmen's Association, testified in support of HB 1255. No written testimony

10:56 AM Nathan Crow read definition of the labeling on milk products.

Additional written testimony:

Dan Colegrove, #23131

10:57 AM Chairman Luick closed the hearing on HB 1255.

10:57 AM Senator Lemm, moved Do Pass HB 1255.

Senator Weston seconded the motion.

10:57 AM Nathan Kroh alerted the commission that there was a typo on HB 1255.

10:59 AM Senator Lemm withdrew his Do Pass motion.

10:59 AM Senator Weston withdrew his seconded motion.

10:59 AM Senator Hogan moved to adopt amendment LC 23.0534.03001.

10:59 AM Lemm seconded the motion. LC 23.0534.03001

Roll call vote:

| Senators | Vote |
|-----------------------|-------------|
| Senator Larry Luick | Y |
| Senator Janne Myrdal | A |
| Senator Kathy Hogan | Y |
| Senator Randy D. Lemm | Y |
| Senator Mark F. Weber | Y |
| Senator Kent Weston | Y |

Vote 5-0-1 DO PASS to ADOPT AMENDMENT TO HB 1255.

10:59 AM Senator Lemm moved to DO PASS HB 1255 AS AMENDED.

10:59 AM Senator Weston seconded the motion.

Roll call vote:

| Senators | Vote |
|-----------------------|-------------|
| Senator Larry Luick | Y |
| Senator Janne Myrdal | A |
| Senator Kathy Hogan | Y |
| Senator Randy D. Lemm | Y |
| Senator Mark F. Weber | Y |
| Senator Kent Weston | Y |

Motion passed 5-0-1 to DO PASS HB 1255 AS AMENDED.

Senator Lemm will carry the bill.

11:01 AM Chairman Luick Adjourned the meeting.

Brenda Cook, Committee Clerk

23.0534.03001
Title.04000

Adopted by the Senate Agriculture and
Veterans Affairs Committee
March 9, 2023

AK
3-9-23
(1-1)

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1255

Page 1, line 22, replace "Camlidae" with "Camelidae"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1255, as engrossed: Agriculture and Veterans Affairs Committee (Sen. Luick, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1255 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 1, line 22, replace "Camlidae" with "Camelidae"

Renumber accordingly

TESTIMONY

HB 1255

Dakota Resource Council
1720 Burnt Boat Dr. Ste 104
Bismarck ND 58503
Neutral Testimony for HB 1255

To the Honorable Chairman of the House Ag Committee and to the representatives of the house. DRC would like to ask the following questions regarding this bill.

1. Why exactly are we changing the definition of Milk in North Dakota? It would seem that it wants to broaden the definition of Milk beyond that of just cows which we have no problem with. Some of our members milk goats and we applaud the inclusiveness but we wonder what purpose water buffalo, yak, horse, and donkey milk has in being defined in this bill?
2. Why is the language of “raw, cooled, pasteurized, homogenized, recombined, or concentrated, provided the secretion meets applicable grade A requirements” removed? Will this lower the bar of what can be labeled as milk?

In the language of this bill there is no clear requirement for labeling exactly what animal your milk is coming from and no clear requirement to label what treatment was given to the Milk. Currently, Milk is defined as from a cow so we can be reasonably sure that anything labeled Milk in our supermarkets is from a cow. With this change, anything labeled Milk could be from a cow, a donkey, a reindeer, or for all we know a combination of milks mixed together from many animals. We would humbly suggest that an amendment be added that all milk in North Dakota be labeled properly with the animal it was obtained from so consumers can make responsible decisions regarding their milk purchases.

Possible Language to consider

14. “Labeling” means any display of written, printed, or graphic matter upon the immediate container of any article

10. Labeling All milk products should be clearly labeled which animal or animals the milk was obtained from and specify if the product is raw, cooled, pasteurized, homogenized, recombined, or concentrated, provided the secretion meets applicable grade A requirements.

COMMISSIONER
DOUG GOEHRING



ndda@nd.gov
www.nd.gov/ndda

**NORTH DAKOTA
DEPARTMENT OF AGRICULTURE**

STATE CAPITOL
600 E BOULEVARD AVE DEPT 602
BISMARCK ND 58505-0020

**Testimony of Nathan Kroh
Dairy Coordinator
House Bill 1255
House Agriculture Committee
Room 327C
January 19, 2023**

Chairman Thomas and members of the House Agriculture Committee, I am Nathan Kroh, the Dairy Coordinator for the North Dakota Department of Agriculture (NDDA), and I am representing Agriculture Commissioner Doug Goehring. I am here today in neutral testimony of House Bill 1255, relating to the definitions of “milk”.

The definitions within this bill appear to align very closely with the Pasteurized Milk Ordinance (PMO), which already provides specific definitions for “camel milk”, “goat milk”, “hooved mammals’ milk”, “sheep milk”, “water buffalo milk”. ND Century Code Chapter 4.1-25-30 adopts the PMO by reference.

House Bill 1255 would simply align the state definitions with the PMO definitions of milk.

As the Committee reviews and considers House Bill 1255, the Department of Agriculture would like to propose a minor amendment to incorporate the family of Camelidae animals, to completely align with the PMO. While the regulatory authority within the Department of Agriculture is limited to Chapter 4.1-25, updating the definitions within Chapters 4.1-05 and 4.1-26 to include the Camelidae family would make the ND century code more consistent across the chapters.

Chairman Thomas and committee members, thank you for your consideration of HB 1255. I would be happy to answer any questions you may have.

HOUSE BILL NO. 1255

Introduced by

Representatives Holle, K. Anderson, Christensen, Dyk, Fisher, Hauck, Murphy, S. Olson,
Rohr, VanWinkle

Senators Boehm, Schaible

1 A BILL for an Act to amend and reenact sections 4.1-05-01 and 4.1-25-01, and subsection 9 of
2 section 4.1-26-01 of the North Dakota Century Code, relating to the definition of milk.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 4.1-05-01 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **4.1-05-01. Definitions.**

7 As used in this chapter:

8 1. "Commission" means the North Dakota dairy promotion commission.

9 2. "Dairy product" means a product for human consumption which is derived from the
10 processing of milk from ~~cows~~ a healthy four-legged hooved mammal. The term
11 includes a milk product normally consumed in liquid form as a beverage.

12 3. "Dealer" means any person that handles, ships, buys, or sells dairy products, or who
13 acts as a sales or purchasing agent, broker, or factor of dairy products.

14 4. "Gross receipts" means the amount paid to a producer for milk or for a product derived
15 from milk and sold by such producer.

16 5. "Milk" means the lacteal secretion, practically free of colostrum, obtained by the
17 complete milking of a healthy hooved mammal, including any member of the order
18 Cetartiodactyla and including a member of the family:

19 a. Bovidae, including cattle, water buffalo, sheep, goats, and yaks;

20 b. Cervidae, including deer, reindeer, and moose; and

21 c. Equidae, including horses and donkeys.

22 d. Camelidae, including llamas, alpacas, and camels.

23 6. "Processor" means a person that takes delivery of milk or cream and then:

24 a. Cans, dries, prepares, or packages the milk or cream; or

1 b. Produces another product from the milk or cream.

2 6-7. "Producer" means a person engaged in the production of milk from ~~cows~~ a four-legged
3 mammal for commercial use.

4 **SECTION 2. AMENDMENT.** Section 4.1-25-01 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **4.1-25-01. Definitions.**

7 1. "Cheese factory" means a facility that makes cheese for commercial purposes.

8 2. "Commissioner" means the agriculture commissioner or the commissioner's designee.

9 3. "Condensery" means a facility where condensed or evaporated milk is produced.

10 4. "Dairy animal" means any healthy four-legged hooved mammal maintained for the
11 commercial production of milk to be offered for sale for use in the processing or
12 manufacturing of milk or dairy products.

13 5. "Dairy farm" means a place where one or more dairy animals are kept.

14 6. "Dairy product" includes milk, cream, sour cream, butter cream, skimmed milk, ice
15 cream, whipped cream, flavored milk or skim milk drink, dried or powdered milk,
16 cheese, cream cheese, cottage cheese, creamed cottage cheese, ice cream mix,
17 sherbet, condensed milk, evaporated milk, or concentrated milk.

18 7. "Department" means the department of agriculture.

19 8. "Distributor" means a person that provides storage, transportation, delivery, or
20 distribution of dairy products to any person who sells dairy products.

21 9. "Drying plant" means a facility that manufactures dry milk products by removing water
22 from milk or milk products.

23 10. "Filled dairy products" means any milk, cream, or skimmed milk, or any combination of
24 them, whether or not condensed, evaporated, concentrated, frozen, powdered, dried,
25 or desiccated, or any food product made or manufactured from those products, to
26 which has been added, blended, or compounded with, any fat or oil, other than milk
27 fat, to imitate a dairy product. "Filled dairy products" may not be construed to mean or
28 include:

29 a. Any distinctive proprietary food compound not readily mistaken for a dairy
30 product, if the compound is customarily used on the order of a physician and is

- 1 prepared and designed for medicinal or special dietary use and prominently so
2 labeled;
- 3 b. Any dairy product flavored with chocolate or cocoa or the vitamin content of
4 which has been increased, or both, if the fats or oils other than milk fat contained
5 in the product do not exceed the amount of cacao fat naturally present in the
6 chocolate or cocoa used and the food oil, not in excess of one-hundredth per
7 centum of the weight of the finished product, used as a carrier of such vitamins;
8 or
- 9 c. Margarine.
- 10 11. "Grading" means the examination of milk or milk products by sight, odor, taste, or
11 laboratory analysis, the results of which determine a rating of the quality of the
12 product.
- 13 12. "Ice cream plant" means a facility that makes ice cream for commercial purposes.
- 14 13. "Ice milk plant" means a facility that makes ice milk for commercial purposes.
- 15 14. "Imitation milk" or "imitation milk product" means a food product or food compound
16 made to resemble milk or a milk product when any of the following occurs:
- 17 a. The food physically resembles milk or a milk product. "Physical resemblance"
18 means those characteristics relating to the composition of food, including fat and
19 moisture content, nonfat solids content, and functional ingredient or food additive
20 content such as emulsifiers, stabilizers, flavor, or color additives.
- 21 b. The packaging used resembles the packaging used for milk or for a milk product.
- 22 c. The food product or food compound is displayed in a retail establishment in the
23 same manner as milk or a milk product.
- 24 d. Verbal or pictorial expressions are used on the food products or food compounds,
25 labeling, or in advertisements or other similar devices used to promote the food
26 products or food compounds that state or imply that the food is milk or a milk
27 product.
- 28 e. The food product or food compound in any other way is manufactured, packaged,
29 or labeled so as to resemble the identity, intended use, or physical and sensory
30 properties of milk or a milk product. "Physical and sensory properties" means

1 those characteristics relating to flavor, texture, smell, and appearance of a food
2 product or food compound.

3 15. "Milk" means the lacteal secretion, practically free of colostrum, obtained by the
4 complete milking of a healthy hooved mammal, including any member of the order
5 Cetartiodactyla and including a member of the family:

6 a. Bovidae, including cattle, water buffalo, sheep, goats, and yaks;

7 b. Cervidae, including deer, reindeer, and moose; and

8 c. Equidae, including horses and donkeys.

9 d. Camelidae, including llamas, alpacas, and camels.

10 16. "Milk hauler" means a person that owns vehicles used to transport raw milk from a
11 dairy farm to a dairy facility.

12 ~~16-17.~~ "Milk plant or bottling plant" means a facility where milk or milk products are collected,
13 handled, processed, stored, and prepared for distribution.

14 ~~17-18.~~ "Milk solids or total solids" means the total amount of solids in milk.

15 ~~18-19.~~ a. "Pasteurization" as applied to milk or skim milk means either:

16 (1) The process of heating every particle of milk to at least one hundred
17 forty-five degrees Fahrenheit [62.78 degrees Celsius] and cream and other
18 milk products to at least one hundred fifty degrees Fahrenheit [65.55
19 degrees Celsius], and holding it at that temperature continuously for at least
20 thirty minutes; or

21 (2) Heating every particle of milk to at least one hundred sixty-one degrees
22 Fahrenheit [71.67 degrees Celsius] and cream and other milk products to at
23 least one hundred sixty-six degrees Fahrenheit [74.44 degrees Celsius],
24 and holding it at that temperature continuously for at least fifteen seconds in
25 approved and properly operated equipment.

26 b. When applied to cream for butter making, "pasteurization" means the cream must
27 be held at a temperature of not less than one hundred sixty-five degrees
28 Fahrenheit [73.89 degrees Celsius] for at least thirty minutes or not less than one
29 hundred eighty-five degrees Fahrenheit [85.00 degrees Celsius] for at least
30 fifteen seconds.

31 c. This subsection may not be construed as barring any other process that has
32 been demonstrated to be equally efficient which assures proper pasteurization

1 and keeping quality, which is consistent with the most desirable quality, and
2 which is approved by the commissioner.

3 ~~19.20.~~ "Pasteurized milk ordinance" means the 2019 revision of the Grade "A" Pasteurized
4 Ordinance issued by the United States food and drug administration and by the United
5 States department of agriculture's public health service.

6 ~~20.21.~~ "Peddler" means a person that purchases milk or milk products and sells the milk or
7 milk products directly to consumers at any place other than from a store, stand, or
8 other fixed place of business.

9 ~~21.22.~~ "Person" means individuals, firms, partnerships, associations, trusts, estates,
10 corporations, and limited liability companies, and any and all other business units,
11 devices, or arrangements.

12 ~~22.23.~~ "Processing or manufacturing" means the treatment of milk or milk products by
13 pasteurizing, bottling, churning, adding flavors to, freezing, dehydrating, packaging,
14 coagulating, or treating in any manner that changes the natural, physical, or chemical
15 properties of the original product.

16 ~~23.24.~~ "Producer dairy" means a dairy farm that sells milk or cream to a dairy plant for
17 processing or manufacturing.

18 ~~24.25.~~ "Producer-processor" or "producer-distributor" means a producer that is also a
19 processor or distributor.

20 ~~25.26.~~ "Raw milk or raw milk products" means products that have not been treated by the
21 process of pasteurization.

22 ~~26.27.~~ "Retail" means the sale of milk or milk products directly to the consumer.

23 ~~27.28.~~ "Sampler" means a person, other than a milk producer or dairy plant employee, who
24 transports samples for official use of raw milk or milk products from a dairy farm to a
25 dairy facility.

26 ~~28.29.~~ "Sampling" means a procedure taking a portion of milk or milk products for grading or
27 testing.

28 ~~29.30.~~ "Shared animal ownership agreement" means any contractual arrangement under
29 which an individual:

30 a. Acquires an ownership interest in a milk-producing animal;

- 1 b. Agrees to pay another for, reimburse another for, or otherwise accept financial
2 responsibility for the care and boarding of the milk-producing animal at the dairy
3 farm; and
4 c. Is entitled to receive a proportionate share of the animal's raw milk production as
5 a condition of the contractual arrangement.

6 ~~30-31.~~ "Skim milk solids or solids-not-fat" means the total solids in milk after all fat has been
7 removed.

8 ~~31-32.~~ "Standard Methods" means the seventeenth edition of the Standard Methods for the
9 Examination of Dairy Products published by the American public health association.

10 ~~32-33.~~ "Testing" means an examination of milk or milk products by sight, odor, taste, or
11 laboratory analysis to determine the quality, wholesomeness, or composition of the
12 product.

13 ~~33-34.~~ "Wholesale" means the sale of milk or milk products to a retail dealer for resale.

14 **SECTION 3. AMENDMENT.** Subsection 9 of section 4.1-26-01 of the North Dakota Century
15 Code is amended and reenacted as follows:

- 16 9. "Milk" means the lacteal secretion ~~of a cow, including when the secretion is raw,~~
17 ~~cooled, pasteurized, standardized, homogenized, recombined, or concentrated,~~
18 ~~provided the secretion meets applicable grade A requirements, practically free of~~
19 ~~colostrum, obtained by the complete milking of a healthy hooved mammal, including~~
20 ~~any member of the order Cetartiodactyla and including a member of the family:~~
21 ~~a. Bovidae, including cattle, water buffalo, sheep, goats, and yaks;~~
22 ~~b. Cervidae, including deer, reindeer, and moose; and~~
23 ~~c. Equidae, including horses and donkeys.~~
24 ~~d. Camelidae, including llamas, alpacas, and camels.~~

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1255

Page 1, line 21, at the end of line 21, renumber to include subsection “d. Camelidae, including llamas, alpacas, and camels.

Page 4, line 8, at the end of line 8, renumber to include subsection “d. Camelidae, including llamas, alpacas, and camels.

Page 6, line 23, at the end of line 23, renumber to include subsection “d. Camelidae, including llamas, alpacas, and camels.



North Dakota House of Representatives

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360

#14449



Representative Dawson Holle

District 31
2185 54th Street
Mandan, ND 58554-8731

H: 701-445-7369

C: 701-214-9506

dholle@ndlegis.gov

COMMITTEES:

Human Services
Political Subdivisions

1/19/2023

Good Morning Chairman Thomas, and members of the Agriculture committee,
For the record my name is Dawson Holle and I am honored to serve the great people of District 31.
Today I come here to introduce HB 1255 which defines milk and what produces milk.

Currently under North Dakota Century Code it states that a "Dairy Product," is a product for human consumption which is derived from the processing of milk from cows. However, that's not the only mammal that produces milk, frankly there many other producers that feel they should have a seat at the table too. Therefore, the first change in section 1 is striking out the word cow and replacing it with "a healthy four-legged hooved mammal". You might be asking yourself why include the word healthy? I included the word healthy because people should only consume dairy from healthy animals that will provide value-added, nutritious, high-quality health benefit for human consumption.

The second component this bill does is adds a new definition of milk. This new definition of milk adds all the mammal family that produces milk. A summary of the new definition reads, "the lacteal secretion, practically free of colostrum obtained by the complete milking of a healthy hooved mammal, including any member of the Cetartiodactyla (classification of mammal) and including members of the family; Bovidae (livestock also including water buffalo, sheep, goats, and yaks), Cervidae (deer, reindeer, and moose), and Equidae (Horses and Donkeys).

Thank you and now I will stand for questions.

TESTIMONY FOR HB 1255 – Definition of Milk

By LeAnn Harner
Mandan, ND
701-516-0707
goat@harnerfarm.ne

Mr. Chairman and Members of the Ag Committee,

My name is LeAnn Harner and I operate a small goat dairy 15 miles northwest of Mandan in Oliver County. I'm sorry I can't be with you in person today to thank Representative Holle and the other sponsors for being willing to recognize all the four-legged, hooved mammals as producers of milk. When you look at that list of species, I believe you'll agree that we humans love our milk.

The 2017 Census on Agriculture reports in 2017 there were 164 farms in North Dakota with a total of 1,849 dairy goats. (I know of at least one producer who also had dairy sheep, though I'm not sure she's still in business.) While the vast majority of these goats feed bum lambs, calves, or foals, many producers also use the milk for their families.

In the past, North Dakota has had commercial goat dairies and processors to purchase goat milk. Sadly, with the demise of so many processors, that avenue isn't available for goat owners right now. Instead, those of us interested in providing milk to the public are using the shared animal ownership law. Our customers purchase a share in one of our dairy goats, then pays us a boarding fee for their share of the animal. It's been a great way to encourage people to raise dairy goats and spend the many hours it takes to care for and provide a product.

A share program allows a producer to get familiar with raising goats and with the dairy lifestyle – because it is a lifestyle. Milking twice a day, every day, is a challenge, especially if you are the sole milkmaid in the family. For those of us who love this life, selling shares is a great way to get our feet wet in the industry and decide if it is feasible to take the next step into a commercial dairy and processing unit.

People choose goat milk for a variety of reasons. First, the fat molecules in goat milk are one-fifth the size of fat molecules in cow milk. This gives raw goat milk a lightly sweet, smooth texture with the same mouth feel of homogenized milk. Good milk, kept in glass or stainless steel containers, should have no hint of "goatiness." One of the reasons I helped found the Dakota Goat Association was to provide information to goat owners on raising goats and proper handling of milk. We've held Dairy Days, with tours of a dairy operation and management discussions, cheesemaking classes and Dairy Herd Improvement Association milk testing classes.

I hope you will give favorable consideration to HB 1255.

Dakota Resource Council
Sam Wagner
Ag and Food Field Organizer
1720 Burnt Boat Dr. Ste 104
Bismarck ND 58503
Testimony in support of HB1255

To the Honorable Chairman of the Senate Agriculture and Veterans Committee, DRC would like to offer support to this bill with one small request.

It feels like today our world and our markets are being filled with products that are mimicking other foods. Most of you can probably remember a time when margarine first first came out but that was only the beginning. We now live in a world with Impossible Meats, lab grown meats, and a host of alternatives to milk and cheese products. Because of that, there are many corporate interests that are looking at using the names that consumers trust in order to sell their products. Words like meat, cheese, chicken, eggs, and milk are needed by companies to convince consumers to buy their products. Consumers probably wouldn't buy Almond Hydrate or Almond Filtrate, but call it milk and the consumer will at least have an idea of what it's to be used for and consider spending their money on it.

Labeling is extremely important to our organization. It can be abused by many bad actors and this is why we need clear laws to ensure that consumers know what they are buying and what is in the products they buy. In August of 2011, the FDA [issued](#) a warning letter to the company Cytosport about the fact that their flagship protein supplement, Muscle Milk, contained no actual milk. Ultimately dairy farmers need to be protected, to ensure that their products are not confused for synthetic products. Consumers also have the right to know exactly what they are purchasing.

However, It would seem that this bill wants to broaden the definition of Milk beyond that of just cows. The FDA definition of milk is currently defined as follows:

Sec. 133.3 Definitions. (a) Milk means the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows, which may be clarified and may be adjusted by separating part of the fat therefrom; concentrated milk, reconstituted milk, and dry whole milk

Some of our members milk goats and we applaud the inclusiveness. We would humbly suggest that an amendment be added that all milk in North Dakota be labeled properly with the animal it was obtained from so consumers can make responsible decisions regarding their milk purchases. We understand that our regulators have stated regulations do exist for many animals to label milk properly but with such a broad spectrum of animals this bill covers it might be prudent to add language to this section of the bill to make sure that no animal is left out. Our

amendment would address labeling of raw, cooled, pasteurized, homogenized, recombined, or concentrated, and grade requirements.

Possible Language to consider

14. "Labeling" means any display of written, printed, or graphic matter upon the immediate container of any article

10. Labeling All milk products should be clearly labeled which animal or animals the milk was obtained from and specify if the product is raw, cooled, pasteurized, homogenized, recombined, or concentrated, and applicable grade requirements.



Contact:

Matt Perdue, Lobbyist

mperdue@ndfu.org | 701.641.3303

**Testimony of
Matt Perdue
North Dakota Farmers Union
Before the
Senate Agriculture and Veterans Affairs Committee
March 9, 2023**

Chairman Luick and members of the committee,

Thank you for the opportunity to testify on House Bill No. 1255. My name is Matt Perdue, and I am testifying on behalf of North Dakota Farmers Union's (NDFU) members. NDFU strongly supports HB 1255

NDFU's member-driven Policy and Action supports "the word 'milk' only be used on products coming from an animal." HB 1255 is consistent with that policy statement and would clarify the definition of "milk" under state law.

HB 1255 is an extremely timely piece of legislation. In February, the federal Food and Drug Administration (FDA) released draft guidance on the labeling of plant-based alternatives. In that guidance, FDA suggested the use of the term "milk" to describe plant-based beverages, as long as the term is accompanied by the plant source of the product.¹ For example, FDA recommends that a beverage derived from almonds be labeled "almond milk." If finalized, this guidance is a major setback in the 50-year fight over the use of the term "milk."

Given developments at the federal level, NDFU believes it is important for the state legislature to take a strong stance on use of the term "milk." We encourage the committee to give HB 1255 a "Do Pass" recommendation. I will stand for any questions.

¹ Food and Drug Administration, Center for Food Safety and Applied Nutrition. (2023, February). *Labeling of Plant-Based Milk Alternatives and Voluntary Nutrient Statements: Guidance for Industry [Draft Guidance]*. Retrieved from <https://www.fda.gov/media/165420/download>.



TESTIMONY OF DAN COLEGROVE ON BEHALF OF THE ALLIANCE FOR PLANT BASED INCLUSION (APBI)

NORTH DAKOTA SENATE AGRICULTURE & VETERANS AFFAIRS COMMITTEE

RE: OPPOSITION TO HB 1255

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE,

THE ALLIANCE FOR PLANT BASED INCLUSION (APBI), MUST RESPECTFULLY OPPOSE HB 1255, AS IT RELATES TO DEFINITIONS OF MILK.

FOUNDED IN 2020, APBI IS A COALITION OF SOME OF AMERICA'S MOST WELL-KNOWN COMPANIES THAT ADVOCATE FOR PLANT BASED FOOD POLICIES THAT AFFORD CONSUMERS THE GREATEST CHOICE, CLARITY, AND FLEXIBILITY IN THE MARKETPLACE. OUR MEMBERS INCLUDE ADM, CONAGRA BRANDS, THE KELLOGG COMPANY, KRAFT-HEINZ, NESTLE U.S., AND TYSON FOODS.

HB 1255 WOULD DEFINE MILK IN A MANNER THAT ONLY APPLIES TO ANIMAL PRODUCTS AND WOULD PRECLUDE ITS USE BY ALTERNATIVE, PLANT BASED PRODUCTS.

THIS BILL SUGGESTS THAT CONSUMERS ARE NOW BEING MISLEAD AND SOMEHOW MISTAKING ANIMAL MILKS FROM MILK PRODUCTS FOR PLANT BASED MILKS. MANY OF THESE ITEMS, INCLUDING THOSE MADE FROM COMMODITIES SUCH AS SOY AND OATS, HAVE BEEN ON STORE SHELVES FOR DECADES AND ARE CLEARLY MARKED AS TO WHERE THEY DERIVE

RESEARCH INDICATES THAT RATHER THAN CONFUSING SHOPPERS, EXACTLY THE OPPOSITE IS THE CASE. THE USE OF CLEAR, ACCURATE AND TRANSPARENT LABELS ON PLANT BASED MILKS SERVE TO INFORM CONSUMERS. BUT DON'T TAKE OUR WORD FOR THAT.

JUST TWO WEEKS AGO, THE US FOOD AND DRUG ADMINISTRATION RELEASED LONG ANTICIPATED DRAFT GUIDANCE ON THE LABELING OF PLANT BASED MILK ALTERNATIVES.¹

AFTER YEARS OF STUDY, THE FDA CONCLUDES THERE IS LITTLE EVIDENCE INDICATES THAT CONSUMERS UNDERSTAND THE DIFFERENCES BETWEEN PLANT BASED MILKS AND ANIMAL MILKS. FROM THE FDA DOCUMENT:

“OVERALL, THESE STUDIES INDICATE THAT CONSUMERS UNDERSTAND THAT PLANT-BASED MILK ALTERNATIVES DO NOT CONTAIN MILK WHEN SHOPPING FOR VARIOUS TYPES OF PRODUCTS LABELED WITH THE TERM “MILK.” IN PARTICULAR, ONE CONSUMER SURVEY SUGGESTED THAT ABOUT THREE-QUARTERS OF ITS RESPONDENTS UNDERSTOOD THAT PLANT-BASED MILK ALTERNATIVES DO NOT

¹ <https://www.fda.gov/media/165420/download>

CONTAIN MILK; FEWER THAN PERCENT BELIEVED THAT PLANT-BASED MILK ALTERNATIVES DO CONTAIN MILK, AND THE REMAINDER DID NOT KNOW.

FOCUS GROUPS COMMISSIONED AND CONDUCTED BY FDA SUGGESTED THAT “MILK” IS STRONGLY ROOTED IN CONSUMERS’ VOCABULARY WHEN DESCRIBING AND TALKING ABOUT PLANT-BASED MILK ALTERNATIVES. THE FOCUS GROUPS INDICATED THAT MOST PARTICIPANTS WERE NOT CONFUSED ABOUT PLANT-BASED MILK ALTERNATIVES CONTAINING MILK AND REFER TO PLANT-BASED MILK ALTERNATIVES AS “MILK.” PARTICIPANTS FURTHER INDICATED THAT THEY FEEL FAMILIAR AND COMFORTABLE WITH THE TERM “MILK” WHEN DESCRIBING PLANT-BASED MILK ALTERNATIVES AND THEY PREFERRED TO USE THE TERM WHEN GIVEN A CHOICE OF NAMES FOR PLANT-BASED MILK ALTERNATIVES (E.G., “MILK,” “BEVERAGE,” “DRINK,” ETC.). OTHER RESEARCH ALSO APPEARS TO SHOW THAT CONSUMERS UNDERSTAND THAT PLANT-BASED MILK ALTERNATIVES ARE DISTINCT PRODUCTS AND CHOOSE TO PURCHASE PLANT-BASED MILK ALTERNATIVES BECAUSE THEY ARE NOT MILK.”

HB 1255 IS A SOLUTION IN SEARCH OF A PROBLEM.

THERE ARE NO LAWS LIKE THIS PROPOSED STATUTE ANYWHERE IN THE UNITED STATES. IF APPROVED, NORTH DAKOTA WILL STAND APART AND ALONE FROM EVERY OTHER STATE IN LIMITING ITS SHOPPERS ACCESS TO ACCURATE PRODUCT LABELS.

THE ALLIANCE FOR PLANT BASED INCLUSION SUPPORTS CLEAR, ACCURATE, AND TRANSPARENT LABELING AND MARKETING FOR PLANT-BASED FOODS, INCLUDING ALLOWING THE USE OF COMMON OR USUAL NAMES, SUCH AS SOY MILK OR OAT MILK.

MISGUIDED ATTEMPTS LIKE HB 1255 TO LIMIT COMMUNICATION BETWEEN COMPANIES AND THEIR CUSTOMERS ARE UNNECESSARY, UNFAIR, AND RAISE FIRST AMENDMENT CONCERNS, SOMETHING ALSO NOTED IN THE FDA GUIDANCE DOCUMENT.

WE DO NOT BELIEVE GOVERNMENT SHOULD BE IN A POSITION TO PICK GROCERY STORE WINNERS AND LOSERS. CONSUMERS ARE NOT MISLED BY PLANT-BASED MILK LABELS AND WE RESPECTFULLY RECOMMEND THE COMMITTEE REJECT HB 1255.

THANK YOU.



North Dakota House of Representatives

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360

#23198



Representative Dawson Holle

District 31
2185 54th Street
Mandan, ND 58554-8731

H: 701-445-7369

C: 701-214-9506

dholle@ndlegis.gov

COMMITTEES:
Human Services
Political Subdivisions

3/9/2023

Good Morning Chairman Luick, and members of the Senate Agriculture and Veterans Affairs committee, For the record my name is Dawson Holle and I am honored to serve the great people of District 31. Today I come here to introduce HB 1255 which defines milk and what produces milk.

Currently under North Dakota Century Code it states that a "Dairy Product," is a product for human consumption which is derived from the processing of milk from cows. However, that's not the only mammal that produces milk, frankly there many other producers that feel they should have a seat at the table too. Therefore, the first change in section 1 is striking out the word cow and replacing it with "a healthy four-legged hooved mammal". You might be asking yourself why include the word healthy? I included the word healthy because people should only consume dairy from healthy animals that will provide value-added, nutritious, high-quality health benefit for human consumption.

The second component this bill does is adds a new definition of milk. This new definition of milk adds all the mammal family that produces milk. A summary of the new definition reads, "the lacteal secretion, practically free of colostrum obtained by the complete milking of a healthy hooved mammal, including any member of the Cetartiodactyla (classification of mammal) and including members of the family; Bovidae (livestock also including water buffalo, sheep, goats, and yaks), Cervidae (deer, reindeer, and moose), Equidae (Horses and Donkeys), and Camelidae (Alpacas and Camels).

Thank you and now I will stand for questions.