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HOUSE BILL NO. 825

Offered January 10, 2018

Prefiled January 9, 2018

A *BILL to amend the Code of Virginia by adding in Chapter 52 of Title 3.2 an article numbered 5, consisting of sections numbered 3.2-5234 through 3.2-5239, relating to herd shares; written shared herd ownership agreements; requirements; penalty.*

Patron—Knight

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 52 of Title 3.2 an article numbered 5, consisting of sections numbered 3.2-5234 through 3.2-5239, as follows:

Article 5.

Herd Shares.

§ 3.2-5234. Definitions.

As used in this article, unless the context requires a different meaning:

"Abnormal milk" means milk that is, as evidenced by its color, odor, or texture, different from normal milk.

"Contaminated milk" means milk that is unfit for sale or human consumption as a result of treatment of the milk-producing animal (i) with veterinary products, including antibiotics, that were administered within the recommended withholding time or (ii) medicines or insecticides not approved for use on dairy animals by the U.S. Food and Drug Administration or the U.S. Environmental Protection Agency.

"Herd seller" means a person who agrees to sell a percentage ownership interest in a milking herd to a responsible party.

"Herd share" means the ownership interest in a fixed percentage of a herd of milk-producing animals.

"Milking herd" means one or more milk-producing animals.

"Milk-producing animal" means any hooved mammal.

"Normal milk" means the normal pasteurized or unpasteurized lacteal secretion obtained by the complete milking of one or more healthy hooved mammals that evidences the commonly accepted color, odor, or texture of milk of that mammal.

"Percentage ownership interest" means the ownership share, expressed as a percentage, of a milking herd that is purchased by a responsible party.

"Responsible party" means a person 18 years of age or older.

"Undesirable milk" means milk that, prior to the milking of the milk-producing animal, is expected to be unsuitable for sale, including milk containing colostrum.

"Unpasteurized milk" means the normal lacteal secretion obtained by the complete milking of one or more healthy hooved mammals that has not been pasteurized and is practically free of colostrum.

"Written shared herd ownership agreement" means a legally executed agreement between the herd seller and buyer wherein the seller agrees to sell a set percentage of his herd to the buyer.

§ 3.2-5235. Written shared herd ownership agreement; provisions and execution.

A. Any responsible party may enter into a written shared herd ownership agreement with a herd seller to obtain a herd share of a milking herd. Such agreement shall provide that following execution of the written shared herd ownership agreement, the responsible party:

1. Acquires a herd share in a milking herd;

2. Agrees to remunerate or barter with the herd seller for the percentage ownership interest of the milking herd and the care and boarding of all milk-producing animals in the purchased milking herd;

3. Assumes joint liability associated with the milking herd and any milk produced by such herd and stored, or packaged, at the farm;

4. Is entitled to receive a share of the milking herd's unpasteurized milk production equal to the percentage ownership interest following the filing of the signed and executed written shared herd ownership agreement with the Commissioner;

5. Acknowledges the inherent dangers of consuming unpasteurized milk that may contain bacteria, such as *Brucella*, *Campylobacter*, *Listeria*, *Salmonella*, and *E. coli*; that has not been pasteurized to remove bacteria; and that is particularly dangerous to children, pregnant women, and those with compromised immunity; and

6. Agrees not to distribute or deliver unpasteurized milk to any person that is not a party to the

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59 written shared herd ownership agreement. The sale, resale, or redistribution of unpasteurized milk or
60 products made from unpasteurized milk obtained from a herd share is strictly prohibited.

61 B. Any herd seller that is a party to a written shared herd ownership agreement shall file a signed
62 and executed copy of such agreement with the Commissioner prior to delivering to the responsible party
63 any share of unpasteurized milk required by the agreement. The filed copy shall contain the names,
64 addresses, and phone numbers of the herd seller and the responsible party so that either party may be
65 contacted in the event of an illness. Such information shall be made available to the Virginia
66 Department of Health in the event of an illness.

67 **§ 3.2-5236. Animal health requirements; reporting of illness.**

68 A. Any herd seller that is a party to a written shared herd ownership agreement shall meet all
69 animal health requirements for milk-producing animals established by the state veterinarian in
70 accordance with state and national standards, including the following:

71 1. Unpasteurized milk from milk-producing animals intended for consumption shall be from a herd
72 that tested negative within the previous 12 months for brucellosis, tuberculosis, and other diseases as
73 required by the state veterinarian. Additions to the herd shall test negative for the diseases within the
74 previous 30 days before introduction into the herd;

75 2. Any milk-producing animal that produces abnormal, undesirable, or contaminated milk shall be
76 excluded from the milking herd until reexamination shows that the milk has become normal. A
77 milk-producing animal with only slight inflammation of the udder shall be excluded from the milking
78 herd until reexamination shows that the milk has become normal. A milk-producing animal that shows
79 chronic mastitis, whether producing abnormal milk or not, shall be permanently excluded from the
80 milking herd; and

81 3. Such herd seller shall have an ongoing veterinarian-client-patient relationship with a licensed
82 veterinarian.

83 B. Any party to a written shared herd ownership agreement, or any physician, that becomes aware of
84 an illness directly related to consuming unpasteurized milk provided pursuant to a written shared herd
85 ownership agreement shall report the illness to the local health department and the Commissioner.
86 Upon receipt of such a report, the Commissioner or his designee shall conduct an investigation jointly
87 with the Department of Health. The Commissioner may enter upon and have free access to any location
88 relevant to the investigation in performance of his duties pursuant to § 3.2-5213. Upon completion of
89 the report, in the case of a confirmed illness tied to consumption of unpasteurized milk, the
90 Commissioner or the State Health Commissioner shall notify the public and impacted parties of the
91 results of such report.

92 **§ 3.2-5237. Packaging.**

93 Any milk produced under a written shared herd ownership agreement and intended for consumption
94 shall be packaged in a container labeled with the name, address, and contact information of the herd
95 seller. Such package shall include a consumer advisory indicating the danger of consuming
96 unpasteurized animal-derived foods that have not been processed to remove pathogens.

97 **§ 3.2-5238. Penalty for violation.**

98 Any violation of or failure to comply with the provisions of this article or any regulation adopted
99 hereunder is a Class 1 misdemeanor. Each day during which such violation or failure occurs shall
100 constitute a separate offense.

101 **§ 3.2-5239. Regulations.**

102 The Board may adopt such regulations as are necessary to carry out the provisions of this article in
103 accordance with §§ 3.2-5200 and 3.2-5206.