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

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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.