



## Regulatory Obstacles for Raw Milk & Local Meat

### *Efforts to Overcome Them*



by Pete Kennedy, Esq.

Executive Director

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# We've Got Your Farmer's Back!

*Nonprofits You Can Count On*



**Food Freedom Foundation (FFF) - 501(c)(3)**

**Farm-to-Consumer Legal Defense Fund (FTCLDF)**

**Weston A. Price Foundation (WAPF) - 501(c)(3)**



*Weston A. Price Foundation*



[westonaprice.org](http://westonaprice.org)



[farmtoconsumer.org](http://farmtoconsumer.org)

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Photo Courtesy FTCLDF:

<https://www.farmtoconsumer.org/blog/2013/03/22/another-crack-at-the-ban/>

**Read:**

“Food Series: Raw Milk Nation”

<https://home.solari.com/solari-food-series-raw-milk-nation/>

# Ban on Raw Milk for Human Consumption in Interstate Commerce 21 CFR 1240.61

## No input from Congress

- *Public Citizen v. Heckler*, 653 F. Supp. 1229 (D.D.C. 1987)  
Lawsuit against FDA & Health and Human Services
- FDA reg under “communicable disease”
- 1992 Clarification bans all raw dairy products except aged raw cheese

**You know you have a bad law when otherwise law-abiding citizens violate it with regularity.**

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# Lawsuit: FDA Interstate Raw Milk Ban

## *FTCLDF et al v. U.S. Dept of Health Services et al*



### Lawsuit Outcomes:

FDA stated in court record that it won't enforce ban against individuals crossing state lines

### But May Enforce Law Against

- Farmers delivering raw milk across state lines
- Individuals distributing to a group of people, such as a buyers club.

“There’s **no absolute right** to consume or feed children any particular food.”

“Plaintiffs’ assertion of a ‘fundamental right to their own **bodily and physical health**, which includes what foods they do and do not choose to consume for themselves and their families’ is similarly unavailing because plaintiffs **do not have a fundamental right** to obtain any food they wish.” [FDA Brief (April 2010) p. 25-26]

<https://www.farmtoconsumer.org/blog/2010/05/06/litigation-fda-status/>

by Dan Berger,  
Courtesy of Mike Adams  
at [NaturalNews.com](http://NaturalNews.com)



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# Intrastate Raw Dairy Distribution

## *States free to devise own laws on raw milk distribution*

Legal in 47 states by statute, regulation or policy

- **Sales for Human Consumption** -  
e.g., on-farm, direct delivery, and/or retail stores
- **Sales for Animal Consumption** -  
most states allowing pet milk require a license or registration
- **Distribution through Herdshares Agreements** -  
contractual right to obtain raw milk through percentage ownership interest in dairy animal or herd

State restrictions vary, e.g.,

- Number of dairy animals
- Caps on amount sold each month

***NOTE: No interstate ban on raw pet milk***



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STANDING WITH VERNON MEANS STANDING FOR YOUR FAMILY'S FOOD  
WWW.FARMERSONTRIAL.COM

Photo Courtesy FTCLDF:

<https://www.farmentoconsumer.org/blog/2013/05/20/the-vernon-hershberger-trial-begins-today/>



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# Consumption Is Legal: How to Obtain? *Interstate Milk Freedom Act (H.R. 8374)*



Photo Credit: Bielovitz Design

## Complete repeal of ban would be bad idea.

- FDA treatment of raw cheese producers -  
*The War on Artisan Cheese* by Catherine Donnelly
- How FDA would treat producers of other raw dairy products
- FDA would have jurisdiction

## H.R. 8374 would partially repeal the interstate ban

- Allow interstate shipment between states where distribution is legal
- Require compliance with federal laws on adulteration and misbranding
- Not give FDA rule-making authority

Photo Courtesy FTCLDF:

<https://www.farmtoconsumer.org/blog/2012/12/06/make-your-own-cheese-kefir/>



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# Growing Raw Milk Demand

2007 CDC FoodNet Survey Report\* -  
**10 million Raw Milk Drinkers** (3% U.S. pop.)

2020 More people go to farms for food

2022 Shutdown of infant formula plant

2024 More people take charge of their health

Decline in conventional dairy industry

## More States Legalizing or Expanding Access

- 1/2 Allow Raw Cream
- 1/4 Allow Raw Kefir & Raw Butter
- Dairy Industry Support - Grade A dairies in DE & GA

## Despite FDA and CDC's Anti-Raw Milk Stance

### DE Raw Milk Bill (2024)

- Secretary of Agriculture testified in favor of bill
- Delaware Farm Bureau support
- State Health Department neutral

## Agency Fearmongering on Bird Flu in Raw Milk

- Has done nothing to curb demand
- So far, only MA has mandatory testing for raw milk producers

\*HHS/CDC, Atlas of Exposures 2006-2007  
<https://www.cdc.gov/foodnet/pdfs/fnextat103022011.pdf>

**CHALLENGE: Pass State Laws Enabling New Raw Milk Producers to Meet Demand**

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# Wholesome Meat Act of 1967 (WMA)

## Decimation of Local Slaughterhouse Infrastructure

Sold as “consumer protection”

### Industry Consolidation

- 9,600 in 1968 now 2,850 slaughterhouses in U.S.
- 4 companies control - 80% beef
- 4 companies control - 60% pork

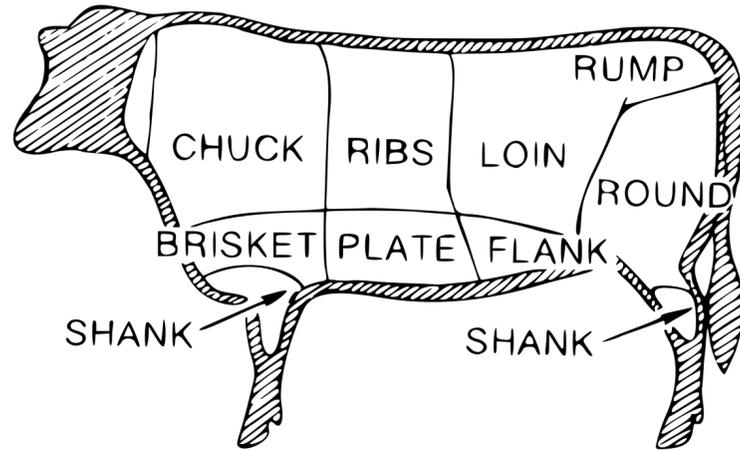
### Drove up Costs for Slaughterhouses

- 1971 SBA Report compared disastrous effect on small meat firms to a hurricane
- Among most competitive U.S. industries in 1967 economy

[Small Business Administration Report (Sep 16, 1971) given to Senate committee]

### Preempted State Laws on slaughter and meat processing

- States must be “at least as strict as” federal law
- Little or no access to a local slaughterhouse
- Often must transport animals several hours



#### Read:

“The Wholesome Meat Act of 1967: Disaster for Small Slaughterhouses from the Start”

<https://www.farmtoconsumer.org/blog/2015/09/10/the-wholesome-meat-act-of-1967-disaster-for-small-slaughterhouses-from-the-start/>



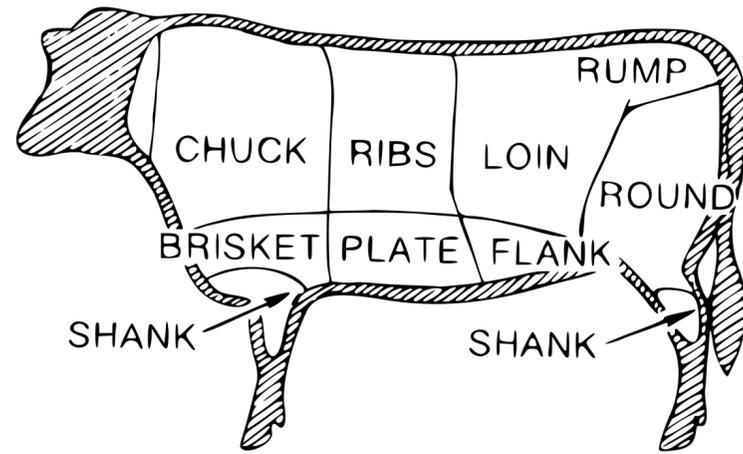
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# U.S. Meat Industry Consolidation



## Food Safety of Meat NOT Improved

- 2005-2020 over 6,000 foodborne illnesses attributed to meat consumption

## Big Plants Process 300 to 400 Cattle per Hour

- Difficult to maintain Quality Control no matter how many inspectors are present

## Federally Inspected (USDA) Slaughterhouses

Account for 98.1% of Cattle and 99.5% of Hogs in U.S.

- 11 plants slaughter 46% of cattle
- 14 plants slaughter 60% of hogs
- 90 plants slaughter 98% of cattle
- 95 plants slaughter 99.5% of hogs

### Source:

National Agricultural Statistics Service (NASS)

*Livestock Slaughter 2023*

*Summary*

(April 2024)

[https://](https://downloads.usda.library.cornell.edu/usda-esmis/files/r207tp32d/wh248d422/p5549g65c/lisan0424.pdf)

[downloads.usda.library.cornell.edu/](https://downloads.usda.library.cornell.edu/usda-esmis/files/r207tp32d/wh248d422/p5549g65c/lisan0424.pdf)

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## Federal Meat Inspection Act (FMIA)



Photo: Wildhearts (pixabay)

FOIA Request by WAPF for  
2010 to July 15, 2022:

No foodborne illness  
outbreak attributed to  
consumption of  
on-farm slaughtered  
or processed meat

### **Personal Use Exemption\* - 9 CFR 303(a)(1)**

"The slaughtering and processing by any individual of livestock **of his own raising**" as long as the meat and meat food products of such livestock are "**exclusively for use by him and members of his household and his non-paying guests and employees.**"

### **USDA's Food Safety Inspection Service (FSIS) Interpretation**

- Purchase a LIVE animal from a farmer
- Slaughter and process animal without any help from the farmer
- Can use the farmer's equipment to slaughter/process on farmer's land
- *Custom Exemption* **IF** farmer slaughters/processes owner's animal

### **Vermont Itinerant Slaughter Statute (6 V.S.A. 3311a)**

- Allows an itinerant slaughterer to slaughter an owner's animal on the farm
- FSIS now says that transaction NOT under Personal Use Exemption
- **Need:** Codify that an owner's agent can slaughter/process for owner

### **Wyoming Bill with "Trigger" Clause (vetoed by governor)**

- Unregulated sale direct to consumer of on-farm or custom meat
- Legalized **IF** by Act of Congress or Federal Court Ruling

\* **"Exempt"** means no inspector required present during slaughtering or processing

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## Federal Meat Inspection Act (FMIA)



Photo: Kyle Mackie (unsplash)

### Custom Exemption\* - 9 CFR 303(a)(2)

The custom slaughter and/or processing of the owner's animal as long as the meat and meat food products of such livestock are "**exclusively for use in the household of such owner by him and members of his household and his non-paying guests and employees.**"

#### USDA's Food Safety Inspection Service (FSIS) Interpretation

- No required HACCP (Hazard Analysis of Critical Control Point) Plan
- Number of owners unlimited
- Required: *"The custom operation must maintain records showing the identity of the individual owner's name **prior to slaughter**. In the case of more than one owner of the livestock, a list of the individual owners' names is required prior to slaughter."*

#### Meat Share Operations - CO, NE, TX, WY

- Obtain custom meat through ownership interest in herd of livestock
- CO & WY - Owners don't have to be identified before slaughter
- Increases demand for custom animals

FOIA Request by FARFA for 2012 to June 8, 2020:

No foodborne illness outbreak attributed to consumption of **custom** meat

\***"Exempt"** means no inspector required present during slaughtering or processing



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Photo by Thomas Massie  
Courtesy FFF: <https://www.foodfreedomfoundation.org/blog/the-time-for-prime-is-now>

**Read:**

“Support the PRIME Act (H.R. 3187)”

<https://www.farmtoconsumer.org/wp-content/uploads/2016/02/Prime-Act-FTCLDF-white-paper.pdf>

## ***PRIME ACT (H.R. 2814)*** ***Processing Revival and Intrastate Meat Exemption*** ***first introduced in 2015***

PRIME Act would **give states the option** of legalizing the intrastate sale of custom meat by the cut direct to the consumer, to restaurants and retail stores.

### **2024 House Farm Bill (H.R. 8467, Sec. 12114)**

A version of the PRIME Act that would allow a limited number of custom facilities in each state to participate in a **pilot program** where meat slaughtered and processed at the custom facility could be sold in intrastate commerce by the cut direct to the consumer by either the facility itself or the owner of the animal.



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## Federal Meat Inspection Act (FMIA)



Ohio-Inspected Meat

See If Your State Participates  
in the CIS Program

<https://www.fsis.usda.gov/inspection/state-inspection-programs/cooperative-interstate-shipping-program>

## Interstate Sales of State-Inspected Meat

### Generally, State-Inspected Meat Can Only Be Sold in Intrastate Commerce

Since state laws on slaughtering and processing must be at least as strict as federal law, there's no good reason meat slaughtered and processed at a state-inspected facility cannot be sold in interstate commerce.

### Cooperative Interstate Shipment Program (CIS)

Allows the distribution in interstate commerce of meat slaughtered and processed in state-inspected facilities with 25 or fewer employees.

- States Meat Inspection Programs can apply to USDA-FSIS to join CIS
- Eligible Slaughterhouses and Meat Processing Facilities can apply to ship meat across state lines.
- Only 10 of 29 States have joined CIS

### H.R. 1646 - New Markets for State-Inspected Meat and Poultry Act

Would allow the interstate shipment of meat and poultry products that were slaughtered and processed in a state-inspected facility.



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# Country Of Origin Labeling (COOL) Mandatory Laws for Beef and Pork *Repealed by Congress*

*after 2015 Adverse Opinion from World Trade Organization*



“Product of USA”

Order Label at <https://supermarketlabels.com/product-of-usa-label-121769prb485>

## Loophole for Foreign Meat Producers

Could legally use “Product of the USA” labels

- If **any kind** of further processing or repackaging in the U.S.
- Even if the animal that the meat came from was born, raised, slaughtered, and initially processed **in another country**

Farmers & Ranchers have the right to label their meat products as

“Product of the USA” or  
“Made in the USA”

If their meat animal meets the four criteria

## New USDA Voluntary Labeling Law - effective Jan. 2025

Legal to label beef and pork as a product of the USA, only **IF** the meat was from an animal meeting all four criteria:

1. **Born** in the USA
2. **Raised** in the USA
3. **Slaughtered** in the USA
4. **Processed** in the USA



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# Thank You

## Let Me Know If You Have Questions

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