AMENDMENT TO H.R. 2, AS REPORTED

OFFERED BY MR. MASSIE OF KENTUCKY

At the end of subtitle C of title IX, add the following:

1 **SEC. 9204. INTERSTATE TRAFFIC OF UNPASTEURIZED MILK**

2 **AND MILK PRODUCTS.**

3 (a) IN GENERAL.—Notwithstanding the Federal

4 Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.),

5 section 361 of the Public Health Service Act (42 U.S.C.

6 264), and any regulations or other guidance thereunder,

7 a Federal department, agency, or court may not take any

8 action (including any administrative, civil, criminal, or

9 other action) that would prohibit, interfere with, regulate,

10 or otherwise restrict the interstate traffic of milk, or a

11 milk product, that is unpasteurized and packaged for di-

12 rect human consumption, if—

13 (1) such prohibition, interference, regulation, or

14 restriction is based on a determination that, solely

15 because such milk or milk product is unpasteurized,

16 such milk or milk product is adulterated, mis-

17 branded, or otherwise in violation of Federal law;

18 (2) the milk or milk product's State of origin

19 allows (by law, regulation, or policy) unpasteurized

1 milk or unpasteurized milk products to be distrib-
2 uted for direct human consumption by any means,
3 including any form of retail sale, direct farm to con-
4 sumer distribution, or cowshare;

5 (3) the milk or milk product is produced, pack-
6 aged, and moved in compliance with the laws of such
7 State of origin, including any such laws relating to
8 labeling, warning, and packaging requirements; and

9 (4) the milk or milk product is moved from the
10 State of origin with the intent to transport the milk
11 or milk product to another State which allows the
12 distribution of unpasteurized milk or unpasteurized
13 milk products for direct human consumption, as de-
14 scribed in paragraph (2), irrespective of whether the
15 applicable laws of such other State are identical to
16 the laws of the State of origin.

17 (b) NO PREEMPTION.—Nothing in this section pre-
18 empts any State law.

19 (c) DEFINITIONS.—In this section, the following defi-
20 nitions apply:

21 (1) The term ''cowshare'' means an undivided
22 interest in a milk-producing animal (such as a cow,
23 goat, sheep, or water buffalo, or a herd of such ani-
24 mals) created by a written contractual relationship
25 between a consumer and a farmer—

1   (A) that includes a legal bill of sale to the

2   consumer for an interest in the animal or dairy

3   herd and a boarding contract under which the

4   consumer boards the animal or dairy herd in

5   which the consumer has an interest with the

6   farmer for care and milking; and

7   (B) under which the consumer is entitled

8   to receive a share of milk from the animal or

9   dairy herd.

10   (2) The term ''milk'' means the lacteal secre-

11 tion, practically free from colostrum, obtained by the

12 milking of one or more healthy animals.

13   (3) The term ''milk product''—

14   (A) means a food product made from milk;

15   and

16   (B) includes low-fat milk, skim milk,

17   cream, half and half, dry milk, nonfat milk, dry

18   cream, condensed or concentrated milk prod-

19   ucts, cultured or acidified milk or milk prod-

20   ucts, kefir, eggnog, yogurt, butter, cheese,

21   whey, condensed or dry whey or whey products,

22   ice cream, ice milk, and other frozen dairy des-

23   serts.

24   (4) The term ''packaged for direct human con-

25 sumption'' with respect to milk or milk products—

4

1   (A) means packaged for the final consumer

2   and intended for human consumption; and

3   (B) does not apply if the milk or milk

4   products are packaged for additional proc-

5   essing, including pasteurization, before being

6   consumed by humans.

7   (5) The term ''pasteurized'' means the process

8   of—

9   (A) heating milk or milk products to the

10   applicable temperature specified in the tables

11   contained in section 1240.61 of title 21, Code

12   of Federal Regulations (as in effect on the date

13   of enactment of this Act); and

14   (B) holding the milk or milk product con-

15   tinuously at or above that temperature for at

16   least the corresponding specified time in such

17   tables.

18   (6) The term ''unpasteurized'' means not pas-

19   teurized.

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