



OFFICE OF ATTORNEY GENERAL

1302 East SD Highway 1889, Suite 1
Pierre, South Dakota 57501-8501
Phone (605) 773-3215
Fax (605) 773-4106
<http://atg.sd.gov>

MARTY J. JACKLEY
ATTORNEY GENERAL

RECEIVED
AUG 10 2026
S.D. SEC. OF STATE

BRENT K. KEMPEMA
CHIEF DEPUTY

August 10, 2026

Filed this 10th day of
August 2026

Honorable Monae L. Johnson
Secretary of State
500 E. Capitol
Pierre, SD 57501

A handwritten signature in cursive script that reads "Monae L. Johnson".

SECRETARY OF STATE

RE: Attorney General's Statement – An Initiated Measure Allowing Exceptions for the Direct Sale of Homemade Dairy Products.

Dear Secretary Johnson,

Enclosed is a copy of a proposed Initiated Measure, in final form, that the sponsor submitted to this Office. In accordance with state law, I hereby file the enclosed Attorney General's Statement for this initiated measure.

By copy of this letter, I am providing a copy of the Statement to the sponsor.

Very truly yours,

A handwritten signature in cursive script that reads "Marty J. Jackley".

Marty J. Jackley
ATTORNEY GENERAL

MJJ/dd
Enc.

Cc/encl: Brenda Anderson
Jeff Mehlhaff – Legislative Research Council

INITIATED MEASURE
ATTORNEY GENERAL'S STATEMENT

RECEIVED
AUG 10 2026
S.D. SEC. OF STATE

Title: An Initiated Measure Allowing Exceptions for the Direct Sale of Homemade Dairy Products.

Explanation:

This measure creates an exemption allowing dairy producers to sell homemade, raw dairy products directly to consumers. This includes raw milk and raw milk products such as cream, butter, yogurt, cheese, and ice cream.

Raw dairy products sold under this measure would be exempt from licensing, permitting, inspecting, and testing by the State of South Dakota. The products also would not need to follow state law packaging, labeling, or other food safety requirements. This measure does not change the requirements for non-dairy homemade food products.

The sales under this measure may be conducted at the dairy producer's farm, farmer's market, or other agreed upon locations. However, the sale cannot take place outside of South Dakota or involve resale to a commercial establishment.

Before completing the sale, the producer must notify the consumer that the product is homemade, raw, and unpasteurized, and that it is not licensed or inspected by the State.

A violation of this measure would be a "Class B misdemeanor" which is not defined under South Dakota law.

Legislative or judicial clarification may be necessary. Filed this 10th day of

August 2026

Monae L. Johnson

SECRETARY OF STATE

Designate for Ballot on November 7, 2028 for General Election.

"An Act Creating Exemptions for the Direct Sales of Homemade Dairy Products to End Consumers."

RECEIVED

Be it enacted by the people of South Dakota:

JUL 24 2026

Section 1. That a NEW SECTION be added to chapter 40-32:

SD Secretary of State

Terms used in this Act mean:

- (1) "Deliver," to transfer a homemade dairy product directly from a producer or the producer's designated agent to an end consumer at the farm, ranch, home, farmers' market, office, or any mutually agreed-upon location in this state, provided the transfer is not conducted on private property other than the property of the producer or end consumer without the consent of the property owner;
- (2) "End consumer," an individual who receives a homemade dairy product for personal consumption and does not intend to resell the product;
- (3) "Homemade dairy product," means raw milk or any product derived from raw milk, including but not limited to cream, butter, yogurt, kefir, cheese, and ice cream, that is sourced, produced, and packaged for human consumption at the residential or agricultural property of the producer;
- (4) "Producer," a person who owns or leases property in this state and raises animals on that property to produce milk and dairy products.

Section 2. That a NEW SECTION be added to chapter 40-32:

Notwithstanding the producer permit requirements under §§ 40-32-10.1 to 40-32-10.4 and associated rules, or any other provision of this chapter, chapter 39-6, or § 39-6-2, a homemade dairy product produced, sold, and delivered in compliance with this Act is exempt from:

- (1) Licensure, permitting, inspection, testing, and related requirements under this chapter and administrative rules adopted pursuant to it; and
- (2) Packaging, labeling, grading, and other food safety requirements applicable to regulated milk or dairy products, except for the disclosure required by this Act.

Section 3. That a NEW SECTION be added to chapter 40-32:

Nothing in this Act affects the exemptions or requirements under chapter 34-18 for non-dairy homemade foods. A homemade dairy product sold under this Act is not subject to the provisions or limitations of chapter 40-32.

Section 4. That a NEW SECTION be added to chapter 40-32:

Monae L. Johnson

SECRETARY OF STATE

Designate for Ballot on November 7, 2028 for General Election.

A producer may produce, sell, and deliver a homemade dairy product directly to an end consumer if the requirements of this section are met. A sale authorized under this section may occur at the producer's farm or ranch, a farmers' market, or any mutually agreed-upon location in this state. A sale may not involve interstate commerce or resale to a commercial establishment, except as permitted by federal law.

Nothing in this Act prohibits a producer from providing homemade dairy products as a gift or donation.

Before or at the time of sale, the producer shall provide the following notice to the end consumer:

"This raw dairy product is homemade, raw, and unpasteurized. It is not licensed, inspected, tested, regulated, or graded by the State of South Dakota. Consume at your own risk."

The notice must be clearly legible and provided on a label affixed to the product container or on a placard prominently displayed at the point of sale or delivery.

Section 5. That a NEW SECTION be added to chapter 40-32:

A producer may, at the producer's option and expense, have a homemade dairy product tested by an accredited laboratory or use on-farm testing methods recognized by industry best practices. The producer may provide the results of any such testing (including the date and tests performed) to the end consumer, either verbally, in writing, or by posting the information at the point of sale or delivery.

Nothing in this section requires testing or creates any additional regulatory obligations under this Act or any other provision of state law.

Section 6. That a NEW SECTION be added to chapter 40-32:

Any person who violates any provision of this Act is guilty of a Class B misdemeanor.

From: Kendra Paulton <mrs.paulton@gmail.com>
ent: Tuesday, July 28, 2026 2:51 PM
To: ATG Ballot Comments
Subject: [EXT] Support of initiated measure

I fully support South Dakota Initiated Measure: An Act Creating Exemptions for the Direct Sales of Homemade Dairy Products to End Consumers.

Food freedom and personal responsibility and education of consumption of food products is important and I support this measure!

Kendra Paulton
Custer County

Sent from my iPhone

From: Flynn, Grant
Sent: Thursday, August 6, 2026 4:22 PM
To: Dougherty, Debbie
Subject: FW: [EXT] Response to Final Submission of Initiated Measure
Attachments: ltr.MJJ Draft AG Statement. IM Direct Sales of Dairy Products.pdf

Grant M. Flynn
Assistant Attorney General
Office of the Attorney General
State of South Dakota
1302 S.D. Hwy. 1889, Suite #1
Pierre, SD 57501
(605) 773-3215

From: Flynn, Grant
Sent: Friday, July 24, 2026 10:08 AM
To: 'Busy Ewe Farm Fibers' <busyewefarm@gmail.com>
Subject: RE: [EXT] Response to Final Submission of Initiated Measure

Ms. Anderson,

Please find attached the draft ballot explanation for your initiated measure. The AG will accept public comments for ten days. Our final explanation is due to the SOS office by August 13, 2026. I will also provide you a copy of the final explanation once it has been submitted to the SOS.

Please let me know if you have any questions.

Thanks!

Grant M. Flynn
Assistant Attorney General
Office of the Attorney General
State of South Dakota
1302 S.D. Hwy. 1889, Suite #1
Pierre, SD 57501
(605) 773-3215

From: Busy Ewe Farm Fibers <busyewefarm@gmail.com>
Sent: Wednesday, July 8, 2026 1:47 PM
To: Flynn, Grant
Subject: Re: [EXT] Response to Final Submission of Initiated Measure

Dear Mr. Flynn,
Thank you for your letter dated July 6, 2026, confirming receipt and acceptance of my Final Language Submission as filed on June 12, 2026.

I appreciate the Attorney General's Office moving forward with the draft explanation.
I will use the designated physical mailing address for any future submissions.
Please let me know if additional information is needed.

Sincerely,
Brenda Anderson
Busy Ewe Farm & Fibers
25743 Carroll Creek Road
Custer, SD 57730
busyewefarm@gmail.com
(605)440-0316

On Wed, Jul 8, 2026 at 11:57 AM Flynn, Grant <Grant.Flynn@state.sd.us> wrote:

Ms. Anderson,

Attached please find an electronic copy of a letter that was mailed to you on Monday, July 6, 2026.

Please let me know if you have any questions.

Thanks!

Grant M. Flynn
Assistant Attorney General
Office of the Attorney General
State of South Dakota
1302 S.D. Hwy. 1889, Suite #1
Pierre, SD 57501
(605) 773-3215

STATE OF SOUTH DAKOTA



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MARTY J. JACKLEY
ATTORNEY GENERAL

BRENT K. KEMPEMA
CHIEF DEPUTY

July 24, 2026

RECEIVED

JUL 24 2026

SD Secretary of State

Honorable Monae L. Johnson
Secretary of State
500 E. Capitol
Pierre, SD 57501

RE: Draft Attorney General's Statement – An Initiated Measure Allowing
Exceptions for the Direct Sale of Homemade Dairy Products.

Dear Secretary Johnson,

Enclosed is a copy of a proposed Initiated Measure, in draft form, that the
sponsor submitted to this Office. In accordance with state law, I hereby file the
enclosed *draft* Attorney General's Statement for the purpose of receiving public
comment on the same.

By copy of this letter, I am providing a copy of the *draft* Statement to the
sponsor.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Marty Jackley".

Marty J. Jackley
ATTORNEY GENERAL

MJJ/dd
Enc.

Cc/encl: Brenda Anderson

Filed this 24th day of

July, 2026

A handwritten signature in black ink, appearing to read "Monae L. Johnson".

SECRETARY OF STATE

RECEIVED

JUL 24 2026

SD Secretary of State

INITIATED MEASURE

DRAFT ATTORNEY GENERAL'S STATEMENT

Title: An Initiated Measure Allowing Exceptions for the Direct Sale of Homemade Dairy Products.

Explanation:

This measure creates an exemption allowing dairy producers to sell homemade, raw dairy products directly to consumers. This includes raw milk and raw milk products such as cream, butter, yogurt, cheese, and ice cream.

Raw dairy products sold under this measure would be exempt from licensing, permitting, inspecting, and testing by the State of South Dakota. The products also would not need to follow state law packaging, labeling, or other food safety requirements. This measure does not change the requirements for non-dairy homemade food products.

The sales under this measure may be conducted at the dairy producer's farm, farmer's market, or other agreed upon locations. However, the sale cannot take place outside of South Dakota or involve resale to a commercial establishment.

Before completing the sale, the producer must notify the consumer that the product is homemade, raw, and unpasteurized, and that it is not licensed or inspected by the State.

A violation of this measure would be a "Class B misdemeanor" which is not defined under South Dakota law.

Legislative or judicial clarification may be necessary.

Filed this 24th day of

July, 2026

Monae L. Johnson

SECRETARY OF STATE

Designate for Ballot on November 7, 2028 for General Election.

"An Act Creating Exemptions for the Direct Sales of Homemade Dairy Products to End Consumers."

RECEIVED

Be it enacted by the people of South Dakota:

JUL 24 2026

Section 1. That a NEW SECTION be added to chapter 40-32:

SD Secretary of State

Terms used in this Act mean:

- (1) "Deliver," to transfer a homemade dairy product directly from a producer or the producer's designated agent to an end consumer at the farm, ranch, home, farmers' market, office, or any mutually agreed-upon location in this state, provided the transfer is not conducted on private property other than the property of the producer or end consumer without the consent of the property owner;
- (2) "End consumer," an individual who receives a homemade dairy product for personal consumption and does not intend to resell the product;
- (3) "Homemade dairy product," means raw milk or any product derived from raw milk, including but not limited to cream, butter, yogurt, kefir, cheese, and ice cream, that is sourced, produced, and packaged for human consumption at the residential or agricultural property of the producer;
- (4) "Producer," a person who owns or leases property in this state and raises animals on that property to produce milk and dairy products.

Section 2. That a NEW SECTION be added to chapter 40-32:

Notwithstanding the producer permit requirements under §§ 40-32-10.1 to 40-32-10.4 and associated rules, or any other provision of this chapter, chapter 39-6, or § 39-6-2, a homemade dairy product produced, sold, and delivered in compliance with this Act is exempt from:

- (1) Licensure, permitting, inspection, testing, and related requirements under this chapter and administrative rules adopted pursuant to it; and
- (2) Packaging, labeling, grading, and other food safety requirements applicable to regulated milk or dairy products, except for the disclosure required by this Act.

Section 3. That a NEW SECTION be added to chapter 40-32:

Nothing in this Act affects the exemptions or requirements under chapter 34-18 for non-dairy homemade foods. A homemade dairy product sold under this Act is not subject to the provisions or limitations of chapter 34-18.

Section 4. That a NEW SECTION be added to chapter 40-32:

Filed this 24th day of

July, 2026

Monae L. Johnson

SECRETARY OF STATE

Designate for Ballot on November 7, 2028 for General Election.

A producer may produce, sell, and deliver a homemade dairy product directly to an end consumer if the requirements of this section are met. A sale authorized under this section may occur at the producer's farm or ranch, a farmers' market, or any mutually agreed-upon location in this state. A sale may not involve interstate commerce or resale to a commercial establishment, except as permitted by federal law.

Nothing in this Act prohibits a producer from providing homemade dairy products as a gift or donation.

Before or at the time of sale, the producer shall provide the following notice to the end consumer:

"This raw dairy product is homemade, raw, and unpasteurized. It is not licensed, inspected, tested, regulated, or graded by the State of South Dakota. Consume at your own risk."

The notice must be clearly legible and provided on a label affixed to the product container or on a placard prominently displayed at the point of sale or delivery.

Section 5. That a NEW SECTION be added to chapter 40-32:

A producer may, at the producer's option and expense, have a homemade dairy product tested by an accredited laboratory or use on-farm testing methods recognized by industry best practices. The producer may provide the results of any such testing (including the date and tests performed) to the end consumer, either verbally, in writing, or by posting the information at the point of sale or delivery.

Nothing in this section requires testing or creates any additional regulatory obligations under this Act or any other provision of state law.

Section 6. That a NEW SECTION be added to chapter 40-32:

Any person who violates any provision of this Act is guilty of a Class B misdemeanor.



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<http://atg.sd.gov>

MARTY J. JACKLEY
ATTORNEY GENERAL

BRENT K. KEMPEMA
CHIEF DEPUTY

July 6, 2026

BY EMAIL and U.S. Mail

Brenda Anderson
25743 Carroll Creek Road
Custer, SD, 57730
busyewefarm@gmail.com

Re: Response to Email Submission Dated June 12, 2026 – **Initiated Measure,
Direct Sales of Homemade Dairy Products.**

Dear Ms. Anderson,

I write to inform you that the Attorney General's Office is in receipt of your Final Language Submission email dated June 12, 2026. The Office's delay in responding to your email is due to the fact that it was sent to an email address that is non-existent and another that is not regularly checked. Your email was sent to two Attorney General related email addresses. The first atg@state.sd.us is not an active email address associated with this Office. Second, ATGBallotComments@state.sd.us is only used for the receipt of comments on Attorney General Explanations. As such, it is only regularly accessed during an open comment period pursuant to SDCL § 12-13-25.

The policy of the Attorney General's Office is that all Final Language Submissions be physically submitted via mail to our primary office address

1302 S.D. Hwy. 1889, Suite # 1
Pierre, SD 57501

While this policy has since been clearly posted on our website, it was not publicly available prior to your submission. Because we became aware of your Final Submission with sufficient time to prepare the explanation, the Office will consider your submission filed on June 12, 2026; and we will provide a draft explanation to the Secretary of State's Office for public comment within sixty days as set forth in SDCL § 12-13-25.1.

Please feel free to contact the Attorney General's Office with any additional questions.

Sincerely,

/s/ Grant M. Flynn

Grant M. Flynn
Assistant Attorney General

cc: John McCullough, Director, South Dakota Legislative Research Council
Monae Johnson, South Dakota Secretary of State

From: Busy Ewe Farm Fibers <busyewefarm@gmail.com>
Sent: Friday, June 12, 2026 11:21 AM
To: atg@state.sd.us; SOS-Elections
Cc: lrc@sdlegislature.gov; McCullough, John; ATG Ballot Comments
Subject: [EXT] Final Language Submission – Initiated Measure for 2028 Ballot: “An Act Creating Exemptions for the Direct Sales of Homemade Dairy Products to End Consumers”
Attachments: FinalInitiatedMeasure.pdf; StatementOfOrg.pdf; SouthDakotaDairyFoodFreedomActBackground.pdf; 20260612-AtnGenLtr.pdf

Dear Attorney General Jackley and Secretary of State Johnson,

Please find attached the finalized language for the initiated measure “An Act Creating Exemptions for the Direct Sales of Homemade Dairy Products to End Consumers” for the November 7, 2028 General Election for Review & Finalization

I have also submitted the Statement of Organization for my Ballot Question Committee (as sole sponsor) and am awaiting approval.

Please let me know if you need any additional information.

Thank you,
Brenda Anderson
(605) 440-0316
busyewefarm@gmail.com

Attachments:

Cover Letter – Final Language Submission FinalInitiatedMeasure.pdf
Background information
Statement of Organization

Designate for Ballot on November 7, 2028 for General Election.

“An Act Creating Exemptions for the Direct Sales of Homemade Dairy Products to End Consumers.”

Be it enacted by the people of South Dakota:

Section 1. That a NEW SECTION be added to chapter 40-32:

Terms used in this Act mean:

- (1) “Deliver,” to transfer a homemade dairy product directly from a producer or the producer’s designated agent to an end consumer at the farm, ranch, home, farmers’ market, office, or any mutually agreed-upon location in this state, provided the transfer is not conducted on private property other than the property of the producer or end consumer without the consent of the property owner;
- (2) “End consumer,” an individual who receives a homemade dairy product for personal consumption and does not intend to resell the product;
- (3) “Homemade dairy product,” means raw milk or any product derived from raw milk, including but not limited to cream, butter, yogurt, kefir, cheese, and ice cream, that is sourced, produced, and packaged for human consumption at the residential or agricultural property of the producer;
- (4) “Producer,” a person who owns or leases property in this state and raises animals on that property to produce milk and dairy products.

Section 2. That a NEW SECTION be added to chapter 40-32:

Notwithstanding the producer permit requirements under §§ 40-32-10.1 to 40-32-10.4 and associated rules, or any other provision of this chapter, chapter 39-6, or § 39-6-2, a homemade dairy product produced, sold, and delivered in compliance with this Act is exempt from:

- (1) Licensure, permitting, inspection, testing, and related requirements under this chapter and administrative rules adopted pursuant to it; and
- (2) Packaging, labeling, grading, and other food safety requirements applicable to regulated milk or dairy products, except for the disclosure required by this Act.

Section 3. That a NEW SECTION be added to chapter 40-32:

Nothing in this Act affects the exemptions or requirements under chapter 34-18 for non-dairy homemade foods. A homemade dairy product sold under this Act is not subject to the provisions or limitations of chapter 34-18.

Section 4. That a NEW SECTION be added to chapter 40-32:

Designate for Ballot on November 7, 2028 for General Election.

A producer may produce, sell, and deliver a homemade dairy product directly to an end consumer if the requirements of this section are met. A sale authorized under this section may occur at the producer's farm or ranch, a farmers' market, or any mutually agreed-upon location in this state. A sale may not involve interstate commerce or resale to a commercial establishment, except as permitted by federal law.

Nothing in this Act prohibits a producer from providing homemade dairy products as a gift or donation.

Before or at the time of sale, the producer shall provide the following notice to the end consumer:

"This raw dairy product is homemade, raw, and unpasteurized. It is not licensed, inspected, tested, regulated, or graded by the State of South Dakota. Consume at your own risk."

The notice must be clearly legible and provided on a label affixed to the product container or on a placard prominently displayed at the point of sale or delivery.

Section 5. That a NEW SECTION be added to chapter 40-32:

A producer may, at the producer's option and expense, have a homemade dairy product tested by an accredited laboratory or use on-farm testing methods recognized by industry best practices. The producer may provide the results of any such testing (including the date and tests performed) to the end consumer, either verbally, in writing, or by posting the information at the point of sale or delivery.

Nothing in this section requires testing or creates any additional regulatory obligations under this Act or any other provision of state law.

Section 6. That a NEW SECTION be added to chapter 40-32:

Any person who violates any provision of this Act is guilty of a Class B misdemeanor.

MAY 14 2026

From: [redacted]
t: Thursday, May 14, 2026 1:06 PM
Subject: Waldron, Janet
Subject: FW: [EXT] LRC Review and Comment -- SDCL 12-13-25
Attachments: B Anderson IM - Original Submission.pdf; LRC Letter - B Anderson IM 2026.pdf; LRC suggested style, form, and clarity edits.pdf

I'm not sure we will get a mail copy of this to check in....

From: John McCullough
Sent: Thursday, May 14, 2026 11:40 AM
To: Johnson, Mona; Jacklev. Mart
Cc: Dougherty, Debbie
<Elections@state.sd.us>
Subject: FW: [EXT] LRC Review and Comment -- SDCL 12-13-25

Secretary Johnson and Attorney General Jackley –

Please find attached the LRC's review and comment for a proposed initiated measure submitted to the LRC by Brenda Anderson on May 1, 2026.

If you would like paper copies of these sent to your office, please let me know.

Sincerely,
John

John McCullough
Legislative Research Council
Director
605-773-3251 | [SD Legislature](#)

From: John McCullough
Sent: Thursday, May 14, 2026 11:37 AM
To: busyewefarm@gmail.com
Subject: LRC Review and Comment -- SDCL 12-13-25

Dear Brenda Anderson –

Attached you will find:

- (1) A copy of your original initiated measure proposal, which relates to “homemade dairy products,” received by the LRC on May 1, 2026;
- (2) A letter regarding your submission; and

(3) LRC suggested style, form, and clarity edits.

These documents are being provided to you in compliance with SDCL 12-13-25.

ards,
John

John McCullough
Legislative Research Council
Director
605-773-3251 | [SD Legislature](#)

From: [Busy Ewe Farm Fibers](#)
To: [John McCullough](#); LRC
Subject: [EXT]: Review of 2028 Initiated Measure for Ballot
Date: Friday, May 1, 2026 9:19:06 AM

“An Act Creating Exemptions for the Direct Sale of Homemade Dairy Products to Informed Consumers.”

Be it enacted by the people of South Dakota:

That a NEW SECTION be added to chapter 40-32:

Section 1. Terms used in this Act mean:

- (1) “Homemade dairy product,” any milk or dairy product derived from milk produced by a producer’s own animals and processed in a private, on-farm, or home setting that is not licensed, permitted, inspected, or regulated by the state as a commercial dairy operation;
- (2) “Informed end consumer,” a person who purchases a homemade dairy product for personal or household consumption and does not resell the product, and who has been informed that the product is not licensed, regulated, permitted, or inspected by the state;
- (3) “Producer,” a person who owns or leases property in this state and raises animals on that property to produce milk and dairy products; and
- (4) “Deliver,” to transfer a homemade dairy product directly from a producer or the producer’s designated agent to an informed end consumer at the farm, ranch, home, farmers’ market, office, or any mutually agreed upon location in this state.

Section 2. Exemptions from permit and related requirements. Notwithstanding the producer permit requirements under §§ 40-32-10.1 to 40-32-10.4 and associated rules, or any other provision of this chapter or chapter 39-6, a homemade dairy product produced, sold, and delivered in compliance with this Act is exempt from:

- (1) Licensure, permitting, inspection, testing, and related requirements under this chapter and administrative rules adopted pursuant to it; and
- (2) Packaging, labeling, grading, and other food safety requirements applicable to regulated milk or dairy products, except for the disclosure required by this Act.

Section 3. Relation to cottage food laws. Nothing in this Act affects the exemptions or requirements under chapter 34-18 for non-dairy homemade foods. Homemade dairy products sold under this Act are not subject to the provisions or limitations of chapter 34-18.

Section 4. Allowed sales. A producer may sell and deliver a homemade dairy product, including raw milk and raw dairy products, directly to an informed end consumer if the requirements of this section are met. Sales authorized under this section may occur at the producer’s farm or ranch, farmers’ markets, by delivery, or at any mutually agreed location in this state. A sale may not involve interstate commerce or resale to a commercial establishment, except as permitted by federal law.

Before or at the time of sale, the producer shall provide the following notice to the informed end consumer:

“This raw dairy product is homemade, raw, and unpasteurized. It is not licensed, inspected, tested, regulated, or graded by the State of South Dakota. Consume at your own risk.”

The notice must be clearly legible and provided on a label affixed to the product container or on a placard prominently displayed at the point of sale or delivery. A producer may, at the producer’s option, include additional information about any voluntary testing performed.

Section 5. Assumption of risk. By purchasing a homemade dairy product under this Act, the informed end consumer assumes the inherent risks associated with consuming an unregulated and unpasteurized food product.

Section 6. Voluntary testing and disclosure. A producer may, at the producer’s option and

expense, have a homemade dairy product tested by an accredited laboratory or use on-farm testing methods recognized by industry best practices. The producer may provide the results of any such testing (including the date and tests performed) to the informed end consumer, either verbally, in writing, or by posting the information at the point of sale or delivery. Nothing in this section requires testing or creates any additional regulatory obligations under this Act or any other provision of state law.

Please review-
Brenda Anderson
District 30
(605) 440-0316
25743 Carroll Creek Road
Custer SD 57730

EXT: This email originated from an external sender. Do not click links or open attachments unless you recognize the sender and know the content is safe.

PRESIDENT PRO TEMPORE CHRIS KARR, CHAIR | SPEAKER JON HANSEN, VICE CHAIR
JOHN McCULLOUGH, DIRECTOR | JUSTIN GOETZ, CODE COUNSEL

500 EAST CAPITOL AVENUE, PIERRE, SD 57501 | 605-773-3251 | SDLEGISLATURE.GOV



May 14, 2026

Dear Brenda Anderson:

On May 1, 2026, you submitted to the Legislative Research Council (LRC) a proposed initiated measure. SDCL 12-13-25 requires the LRC to provide a "review and comment" on each proposal submitted to it by a sponsor, for the purpose of assisting the sponsor in writing language "in a clear and coherent manner in the style and form of other legislation" that "is not misleading or likely to cause confusion among voters." (SDCL 12-13-24).

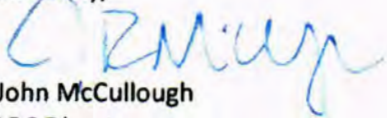
For your consideration, attached to this letter are suggested style, form, and clarity changes to the language you submitted. Please consider each suggestion.

If you proceed with the proposed language or a modified version of the proposed language, please ensure that neither your statements nor any advertising contain any suggestion of endorsement or approval by the LRC. With any proposal to enact new law, whether introduced in the Legislature or proposed by initiative, the contents of the proposal are solely within the discretion of the sponsor. The proposed language should be reviewed by the sponsor and adequately vetted to ensure the language accomplishes the sponsor's objective.

This proposal will have an impact on the revenues, expenditures, or fiscal liability of the state and its political subdivisions. As required by SDCL 12-13-25.1, please provide the LRC with a copy of the proposed language, as submitted in final form to the attorney general, so that a final fiscal impact determination can be made.

SDCL 12-13-25 also requires the issuance of a written opinion as to "whether the initiated measure embraces only one subject under S.D. Const., Art. III, § 21." The proposed measure appears to embrace only one subject—homemade dairy products.

Sincerely,


John McCullough
LRC Director

Enclosures: LRC suggested style, form, and clarity edits
Original sponsor submission

CC: The Honorable Monae L. Johnson, Secretary of State
The Honorable Marty Jackley, Attorney General

Be it enacted by the people of South Dakota:

Section 1. That a NEW SECTION be added to chapter 40-32:

Terms used in this Act mean:

- (1) "Homemade dairy product," any milk or dairy product derived from milk produced by a producer's own animals and processed in a private, on-farm, or home setting that is not licensed, permitted, inspected, or regulated by the state as a commercial dairy operation;
- (2) "Informed end consumer," a person who purchases a homemade dairy product for personal or household consumption and does not resell the product; and who has been informed that the product is not licensed, regulated, permitted, or inspected by the state;
- (3) "Producer," a person who owns or leases property in this state and raises animals on that property to produce milk and dairy products; and
- (4) "Deliver," to transfer a homemade dairy product directly from a producer or the producer's designated agent to an informed end consumer at the farm, ranch, home, farmers' market, office, or any mutually agreed upon location in this state.

Section 2. That a NEW SECTION be added to chapter 40-32:

Exemptions from permit and related requirements:

Notwithstanding the producer permit requirements under §§ 40-32-10.1 to 40-32-10.4 and associated rules, or any other provision of this chapter or chapter 39-6, a homemade dairy product produced, sold, and delivered in compliance with this Act is exempt from:

- (1) Licensure, permitting, inspection, testing, and related requirements under this chapter and administrative rules adopted pursuant to it; and
- (2) Packaging, labeling, grading, and other food safety requirements applicable to regulated milk or dairy products, except for the disclosure required by this Act.

Section 3. That a NEW SECTION be added to chapter 40-32:

Relation to cottage food laws:

Nothing in this Act affects the exemptions or requirements under chapter 34-18 for non-dairy homemade foods. Homemade dairy products sold under this Act are not subject to the provisions or limitations of chapter 34-18.

Commented [A1]: Another way to accomplish the objectives of this proposal would be to amend SDCL chapter 39-6, removing the permitting requirements ... [1]

Commented [A2]: Definition section: definitions are typically ordered alphabetically.

Commented [A3]: Should the definition of "homemade dairy product" be changed to begin as follows: "raw ... [2]

Commented [A4R3]: The reason for the above suggestion is that the definition as currently drafted ... [3]

Commented [A5R3]: Is the text after "home-setting" in the definition of "homemade dairy product" necessary ... [4]

Commented [A6R5]: Suggested rewrite of "homemade dairy product" definition: "Homemade dairy product ... [5]

Commented [A7]: "Informed end consumer" definition: Does it matter if it is for personal or household ... [6]

Commented [A8]: See *Guide to Legislative Drafting*, p. 16. "Do not insert substantive law into a definition ... [7]

Commented [A9R8]: "has been informed that the product..." reads like a substantive requirement. The ... [8]

Commented [A10R8]: Suggested rewrite: "End consumer," an individual who purchases a homemade ... [9]

Commented [A11]: Consider defining "designated agent." Could a third-party retailer facilitate delivery?

Commented [A12]: "Informed" would need to be deleted if the definition of "informed end consumer" ... [10]

Commented [A13]: This essentially means the transfer may occur anywhere in the state. The language could ... [11]

Commented [A14R13]: Please note that the transfer location language is also included in current section ... [12]

Commented [A15]: Consider whether a "(3)" needs to be added to this proposed section, to exempt SDCL ... [13]

Commented [A16]: Catchlines are editorially added if a proposal becomes law.

Commented [A17]: Does SDCL § 40-32-4 (license requirements) also need to be referenced?

Commented [A18]: Does "packaged" need to be added here?

Commented [A19]: Or "section 4 of this Act"

Commented [A20]: Current law distinguishes between "milk" and "raw milk for human consumption." Should ... [14]

Commented [A21]: This section doesn't appear to be necessary. The proposal specifically deals with ... [15]

Commented [A22R21]: Please consider deleting this section.

Section 4. That a NEW SECTION be added to chapter 40-32:

Allowed sales:

A producer may sell and deliver a homemade dairy product, including raw milk and raw dairy products, directly to an informed end consumer if the requirements of this section are met. ~~Sales~~A sale authorized under this section may occur at the producer's farm or ranch, farmers' markets, by delivery, or at any mutually agreed location in this state. A sale may not involve interstate commerce or resale to a commercial establishment, except as permitted by federal law.

Before or at the time of sale, the producer ~~shall~~ must provide the following notice to the informed end consumer:

"This raw dairy product is homemade, raw, and unpasteurized. It is not licensed, inspected, tested, regulated, or graded by the State of South Dakota. Consume at your own risk."

The notice must be clearly legible and provided on a label affixed to the product container or on a placard prominently displayed at the point of sale or delivery. A producer may, at the producer's option, include additional information about any voluntary testing performed.

Section 5. That a NEW SECTION be added to chapter 40-32:

Assumption of risk:

By purchasing a homemade dairy product under this Act, the informed end consumer assumes the inherent risks associated with consuming an unregulated and unpasteurized food product.

Section 6. That a NEW SECTION be added to chapter 40-32:

Voluntary testing and disclosure:

A producer may, at the producer's option and expense, have a homemade dairy product tested by an accredited laboratory or use on-farm testing methods recognized by industry best practices. The producer may provide the results of any such testing, (including the date and tests performed), to the informed end consumer, either verbally, in writing, or by posting the information at the point of sale or delivery. Nothing in this section requires testing or creates any additional regulatory obligations under this Act or any other provision of state law.

Commented [A23]: Should this be "produce, package, sell, and deliver"?

Commented [A24]: This implies that pasteurized milk and pasteurized milk products are included in the meaning of "homemade dairy product." Is that the intent?

Commented [A25]: See discussion above.

Commented [A26]: Is "by delivery" necessary? It is not a location like every other term listed.

Commented [A27]: If a producer must operate in this state and the sale/delivery must occur in this state, is this reference necessary?

Commented [A28]: Does this mean that the intent of the term "homemade dairy product" is to include "raw" products only? Please review above comment.

The proposed law should be clear as to its application. Is it intended to only apply to raw milk and raw milk products? The required notice indicates that it does, but other language in the proposal indicates it applies more broadly to pasteurized milk and related products.

Commented [A29]: Is this necessary? It is not provide any legal requirement or duty, and it seems to be covered by section 6.

Commented [A30R29]: Please consider deleting proposal.

Commented [A31]: Is this section necessary? It does not provide any legal requirement or duty.

Commented [A32R31]: Please consider deleting from proposal.

Page 1: [1] Commented [A1]**Author**

Another way to accomplish the objectives of this proposal would be to amend SDCL chapter 39-6, removing the permitting requirements and other restrictions on the sale of "raw milk for human consumption."

Page 1: [2] Commented [A3]**Author**

Should the definition of "homemade dairy product" be changed to begin as follows: "raw milk or any dairy product derived from raw milk produced by a producer's..."? If this change were made, a definition of raw milk should be added to match the one included in SDCL 39-6-1.

Page 1: [3] Commented [A4R3]**Author**

The reason for the above suggestion is that the definition as currently drafted doesn't necessarily mean that "homemade dairy product" would only include raw milk; it would also include pasteurized milk.

Page 1: [4] Commented [A5R3]**Author**

Is the text after "home-setting" in the definition of "homemade dairy product" necessary? Section 2 of the proposed measure provides that a "homemade dairy product" is not required to be licensed, permitted, inspected, or regulated.

Page 1: [5] Commented [A6R5]**Author**

Suggested rewrite of "homemade dairy product" definition: "Homemade dairy product," raw milk or any dairy product derived from raw milk sourced, produced, and packaged for human consumption at the residential or agricultural property of the producer.

Page 1: [6] Commented [A7]**Author**

"Informed end consumer" definition: Does it matter if it is for personal or household consumption? Is "consumption" enough?

Page 1: [7] Commented [A8]**Author**

See [Guide to Legislative Drafting](#), p. 16. "Do not insert substantive law into a definition section."

Page 1: [8] Commented [A9R8]**Author**

"has been informed that the product..." reads like a substantive requirement. This requirement is already contained in the current section 4 for the notice requirement.

Page 1: [9] Commented [A10R8]**Author**

Suggested rewrite: "End consumer," an individual who purchases a homemade dairy product for personal consumption and does not intend to resell the product."

Page 1: [10] Commented [A12]**Author**

"Informed" would need to be deleted if the definition of "informed end consumer" is changed to "end consumer."

Page 1: [11] Commented [A13]

Author

This essentially means the transfer may occur anywhere in the state. The language could be simplified to only include "at any location in this state." Also, it may add further clarity to add, "provided that the transfer is not conducted on private property, other than the property of the producer or end consumer, without the consent of the property owner."

Page 1: [12] Commented [A14R13]

Author

Please note that the transfer location language is also included in current section 4. Does it need to be in both places?

Page 1: [13] Commented [A15]

Author

Consider whether a "(3)" needs to be added to this proposed section, to exempt SDCL § 39-6-2 - the section of law imposing criminal penalties for selling raw milk without a permit.

Page 1: [14] Commented [A20]

Author

Current law distinguishes between "milk" and "raw milk for human consumption." Should that distinction be made here?

Page 1: [15] Commented [A21]

Author

This section doesn't appear to be necessary. The proposal specifically deals with "homemade dairy products," which means it doesn't pertain to "non-dairy homemade foods."