

STATE OF SOUTH DAKOTA



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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 blue ink signature of Marty J. Jackley, written in a cursive style.

Marty J. Jackley  
ATTORNEY GENERAL

MJJ/dd  
Enc.

Cc/encl: Brenda Anderson

Filed this 24<sup>th</sup> day of

July, 2026

A black ink signature of Monae L. Johnson, written in a cursive style.

SECRETARY OF STATE

Filed this \_\_\_\_\_ day of \_\_\_\_\_

*Morse L. Johnson*

SECRETARY OF STATE

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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 24<sup>th</sup> day of

July, 2026

*Monae L. Johnson*

**SECRETARY OF STATE**

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JUL 1 1907

U.S. DEPT. OF STATE

Filed this \_\_\_\_\_ day of \_\_\_\_\_

*Morgan L. Freeman*

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:

Filed this 24th day of July, 2026

*Monae L. Johnson*

**SECRETARY OF STATE**

EXHIBIT 10

10/1/01

10/1/01

Filed this \_\_\_\_\_ day of \_\_\_\_\_

*Thomas S. Friedman*

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.