

Raw Milk Permits — The C.A.R.E. Perspective

By The C.A.R.E. Board of Directors
Wilmer Newswanger, Board Chairman

Community Alliance for Responsible Eco-farming (CARE) is a private organization of farmers and consumer members started in 2005 with 15 farmers and 85 members. Membership in 2006 and 2007 increased to 1,598 and 2,927, respectively. As of June 30, 2008, there were 31 farmers and 3,709 members in CARE.

Our mission is to provide the healthy, nutritious foods that our members want in a safe and environmentally responsible way. Our members are knowledgeable and responsible. And as PASA members can appreciate, it is important for CARE members to be able to exercise their right to make food choices. CARE has developed guidelines for the farmers and contracts between the farmer and member explaining both parties' responsibilities.

The Commonwealth of Pennsylvania, Department of Agriculture (PDA) contends that the Milk Sanitation Act of 1935 applies to farmers for private sales of their raw milk foods, and therefore farmers must get a raw milk permit. For the private sale of their cheese, farmers are also required to get a cheese permit. With these permits, PDA only allows, in accordance with federal standards, farmers to sell fluid milk and cheese aged more than 60 days. Under PDA's interpretation, the sale of other raw milk foods, such as butter, cottage cheese, kefir, other non-aged cheeses, etc., which our members want is not permitted by state law.

In our search for a way to deal with these restrictions, some people advised (and some are still advising) that we just get a permit and get around the permit restrictions using labor contracts, cow or herd shares contracts, or some other technicality. We rejected these approaches. We considered them to be in the same category as selling raw milk as pet food (which some states allow but prohibit its use for human consumption), knowing that the purchases are not for pet food use.

During our search, other information surfaced. The majority of the food laws have their origins in the early 1900s when the government determined that to protect the public health and safety, it needed to control the "persons" it created. These "persons" include corporations and other artificial or fictitious entities. Because the government created these "persons," they have both the duty and the right to do whatever is necessary to regulate, control or oversee them.

The government did not create people. We are neither corporations nor any other artificial or fictitious entities. We are natural people and private citizens. Both the United States' and Commonwealth of Pennsylvania's Constitutions protect our rights. We are involved with private, not public sales. If there is no difference between private and public, as those in government would like us to believe, then the government can determine, as it sees fit, that anything is public. With this interpretation, nothing is really private and the Constitutions become irrelevant. As a result of our research, we concluded that the PDA has no constitutional authority to require a permit for direct private sales conducted anywhere by private individuals, involving private property, using private contracts. The "foods" we are selling are lawful. As we understand it, it is only the "sale" that the PDA contends is illegal because we have no permits.

Some contend that without a permit there is greater risk to public health and public safety. We disagree. We are extremely concerned about the health and safety of our members and have developed an inspection and testing program that exceeds what PDA would require. Our members are not just a revenue source. They trust us to provide safe food. No greater incentive for safety, security and accountability exists than having to look every customer in the eye with every sale or to put our name on every food item. If we fail to provide safe, quality food, at best, we're out of busi-

ness. Finally how does a permit provide more safety, security or accountability?

The recent major problems with tomatoes, peppers, ground beef, lead paint, etc., all regulated, controlled and/or inspected by the government, does little to raise one's comfort level that our health and safety are in good hands with the government. We also believe the government has strayed into areas where they have no lawful place. Some argue that we have permitted this to go on for so long that we can't reverse it. Had the founding fathers used a similar excuse and not drawn a line in the sand, we'd still be speaking the King's English. Fortunately, we now have written state and federal Constitutions and other historical documents upon which to rely. Everyone who believes that government is the answer needs to ask, what has the government actually done well? What problem has it solved? Poverty? Education? Health care? Energy? Illegal immigration? Pick anything.

We believe we are subjected to unconstitutional and/or misapplied laws, regulations and codes because we have become a country controlled by faceless non-people and people who do not understand and/or follow constitutional law. The issue is bigger than raw milk. It's bigger than agriculture. The whole system is sick. We agree that government has a lawful role. But it's a sad commentary when we say we trust politicians, bureaucrats and their associated special interests, more than our neighbors. As PASA's programs such as Buy Fresh Buy Local demonstrate, we need to rebuild communities and relationships. Local farmers and their customers responsibly exercising their rights are the nucleus of that process.

We thank PASA for the opportunity to introduce you to CARE and to state our position on this very important issue.

Editor's Note: PASA is happy for CARE to voice their opinion regarding raw milk product sales in Pennsylvania and to describe their organization. Please see the Director's Corner for another perspective on the issues raised here.