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## SENATE BILL NO. 962

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Agriculture, Conservation and Natural Resources  
on February 1, 2018)

(Patron Prior to Substitute—Senator Obenshain)

A *BILL to amend the Code of Virginia by adding in Chapter 52 of Title 3.2 an article numbered 5, consisting of sections numbered 3.2-5234 through 3.2-5238, relating to herd shares; written shared herd ownership agreements; requirements; civil penalty.*

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Chapter 52 of Title 3.2 an article numbered 5, consisting of sections numbered 3.2-5234 through 3.2-5238, as follows:**

*Article 5.*

*Herd Shares.*

**§ 3.2-5234. Definitions.**

*As used in this article, unless the context requires a different meaning:*

*"Abnormal milk" means milk that is, as evidenced by its color, odor, or texture, different from normal milk.*

*"Contaminated milk" means milk that is unfit for sale or human consumption as a result of treatment of the milk-producing animal (i) with veterinary products, including antibiotics, that were administered within the recommended withholding time or (ii) medicines or insecticides not approved for use on dairy animals by the U.S. Food and Drug Administration or the U.S. Environmental Protection Agency.*

*"Herd seller" means a person who agrees to sell a percentage ownership interest in a milking herd to a responsible party.*

*"Herd share" means the ownership interest in a fixed percentage of a herd of milk-producing animals.*

*"Milking herd" means one or more milk-producing animals.*

*"Milk-producing animal" means any hooved mammal.*

*"Normal milk" means the normal pasteurized or unpasteurized lacteal secretion obtained by the complete milking of one or more healthy hooved mammals that evidences the commonly accepted color, odor, or texture of milk of that mammal.*

*"Percentage ownership interest" means the ownership share, expressed as a percentage, of a milking herd that is purchased by a responsible party.*

*"Responsible party" means a person 18 years of age or older.*

*"Undesirable milk" means milk that, prior to the milking of the milk-producing animal, is expected to be unsuitable for sale, including milk containing colostrum.*

*"Unpasteurized milk" means the normal lacteal secretion obtained by the complete milking of one or more healthy hooved mammals that has not been pasteurized and is practically free of colostrum.*

*"Written shared herd ownership agreement" means a legally executed agreement between the herd seller and buyer wherein the seller agrees to sell a set percentage of his herd to the buyer.*

**§ 3.2-5235. Written shared herd ownership agreement; provisions and execution.**

*A. In order to obtain a herd share of a milking herd, a responsible party shall enter into a written shared herd ownership agreement with a herd seller. Such agreement shall provide that following execution of the written shared herd ownership agreement, the responsible party:*

*1. Acquires a herd share in a milking herd;*

*2. Agrees to remunerate or barter with the herd seller for the percentage ownership interest of the milking herd and the care and boarding of all milk-producing animals in the purchased milking herd;*

*3. Is entitled to receive a share of the milking herd's milk production equal to the percentage ownership interest following the completion of the signed and executed written shared herd ownership agreement; and*

*4. Shall not sell or resell unpasteurized milk or products made from unpasteurized milk obtained from a herd share to any person that is not a party to the written shared herd ownership agreement.*

*B. Any herd seller who is a party to a written shared herd ownership agreement shall have a signed and executed agreement prior to delivering to the responsible party any share of milk required by the agreement. The agreement shall contain the names, addresses, and phone numbers of the herd seller and the responsible party so that either party may be contacted in the event of an illness.*

**§ 3.2-5236. Animal health requirements; reporting of illness.**

*A. Any herd seller who is a party to a written shared herd ownership agreement shall meet the following animal health requirements for milk-producing animals:*

*1. Unpasteurized milk from milk-producing animals intended for consumption shall be from a herd*

60 *that tested negative within the previous 12 months for brucellosis and tuberculosis. Additions to the herd*  
61 *shall test negative for the diseases within the previous 30 days before introduction into the herd;*

62 *2. Any milk-producing animal that produces abnormal, undesirable, or contaminated milk shall be*  
63 *excluded from the milking herd until reexamination shows that the milk has become normal. A*  
64 *milk-producing animal with only slight inflammation of the udder shall be excluded from the milking*  
65 *herd until reexamination shows that the milk has become normal. A milk-producing animal that shows*  
66 *chronic mastitis, whether producing abnormal milk or not, shall be permanently excluded from the*  
67 *milking herd; and*

68 *3. Such herd seller shall have an ongoing veterinarian-client-patient relationship with a veterinarian*  
69 *licensed pursuant to Chapter 38 (§ 54.1-3800 et seq.) of Title 54.1.*

70 *B. Any herd seller who becomes aware of an illness directly related to consuming unpasteurized milk*  
71 *provided pursuant to a written shared herd ownership agreement shall report the illness to the State*  
72 *Health Commissioner or his designee. Upon receipt of a report of suspected illness related to*  
73 *consumption of unpasteurized milk provided pursuant to a written shared herd ownership agreement,*  
74 *such written shared herd ownership agreement shall be made available to the Department of Health,*  
75 *upon request of the State Health Commissioner within 48 hours of the request being made, and the State*  
76 *Health Commissioner or his designee shall conduct an investigation, and the Department of Agriculture*  
77 *and Consumer Services shall provide assistance upon request. The State Health Commissioner shall*  
78 *have the right of entry to investigate pursuant to § 32.1-25. In the case of a confirmed illness tied to*  
79 *consumption of unpasteurized milk, the State Health Commissioner shall notify the public and impacted*  
80 *parties.*

81 **§ 3.2-5237. Packaging.**

82 *Any milk produced under a written shared herd ownership agreement and intended for consumption*  
83 *shall be packaged in a container labeled with the name, address, and phone number of the herd seller.*  
84 *Such package shall include a consumer advisory indicating that the product contains unpasteurized milk*  
85 *and is not for resale.*

86 **§ 3.2-5238. Civil penalty.**

87 *Any person who fails to comply with the provisions of this article is subject to a civil penalty of*  
88 *\$100. Such penalty shall be collected by the State Health Commissioner, and the proceeds shall be*  
89 *deposited into the general fund of the state treasury. Each day during which such violation or failure*  
90 *occurs shall constitute a separate offense.*

91 **2. That the provisions of this act shall become effective on January 1, 2019.**