



Raw milk saga heads back to court

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AARON HARRIS FOR THE TORONTO STAR

Michael Schmidt, shown with dairy cattle on the Glencolten Farm in Ontario, May 15, 2008, faces contempt of court charges for producing and distributing raw milk, says the public has a right to choose what it consumes.

Farmer to argue forcing him to pasteurize milk is a violation of his constitutional rights

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The ongoing fight over the right to drink raw milk will fire up again in a Newmarket court tomorrow.

Dairy farmer Michael Schmidt will defend himself against charges for allegedly dispensing milk straight from the cow. In Canada, it is illegal to sell or distribute unpasteurized milk, which health officials consider a health hazard.

The defiant farmer, who operates an organic farm with 30 Canadienne cows in Durham, Ont., maintains he is not breaking the law and says he only provides milk to the cow's owners, who pay \$3 a litre to board their animals at his farm. The prohibition on raw milk does not apply to farmers and Schmidt's co-operative venture, set up to skirt the law, will be at the centre of this trial.

Schmidt, who faces 20 charges under the Health Protection and Promotion Act and the Milk Act, plans to argue current laws around mandatory pasteurization are unconstitutional. He says the government is violating his – and the cow-share owners' – personal freedom by preventing him from selling milk straight from the cow.

"It is definitely a Charter argument," Schmidt told the *Star* from his home office at his

Glencolton Farms. "It is infringing on the people's right who want to have unaltered milk."

The province, however, maintains the Health Protection and Promotion Act and the Milk Act are constitutional.

"Food safety remains a top priority for the Ontario government," says Brendan Crawley, spokesperson for the Ministry of the Attorney General, who would not comment further on the specifics of the case. "In order to reduce the potential of food-borne illness, it is illegal to sell and distribute unpasteurized milk in Ontario under the HPPA."

In October, Schmidt was found in contempt of court for distributing raw milk in the Region of York. The judge fined him \$5,000 and ordered him to pay \$50,000 in court costs to cover the region's legal bill. But Schmidt says he has no intention of handing over any money or to stop providing raw milk to cow-share owners.

Despite mounting support for his cause, voiced by celebrity chefs, natural food advocates, farmers and landowner groups, and even some Ontario MPPs, Schmidt will have a tough battle in court.

The Crown will likely call food scientists, infectious disease specialists and medical officers of health to describe the risks of drinking raw milk and to testify that milk produced and distributed by Schmidt is, without question, unpasteurized. According to Schmidt, the Crown will call the two ministry officials who infiltrated the farmer's cow-share scheme and who helped launch a 2006 raid on his farm.

Warnings against drinking raw milk are regularly issued by Health Canada, medical associations and local health units. The risks associated with raw milk are real, officials say, and laws are in place to protect public health.

According to the Ministry of Health, there were 117 cases of enteric illness associated with unpasteurized milk and cheese in Ontario between 2005 and 2008. Officials often point to a 2005 outbreak of *E. coli* 0157: H7 in Simcoe County that was linked to the consumption of raw milk, and which put four people, including two children, into hospital emergency departments.

A review published earlier this month in the *Journal of Clinical Infectious Diseases* described raw milk as "a continued public health threat," and found no evidence that heating milk destroys its nutritional value. In the December issue of the American Academy of Pediatrics' newsmagazine, a panel of experts warned families against giving children unpasteurized milk, and cautioned that "raw milk has no benefit that would justify any increase in risk to children."

Bruce Saunders, a dairy farmer from Holland Centre, near Owen Sound, says he only keeps pasteurized milk in his fridge and would never offer untreated milk.

"Especially to my own grandchildren. There is absolutely no way," says Saunders, who sits on the board of the Dairy Farmers of Ontario and whose family has been dairying since 1960.

Drinking unpasteurized milk is just too risky, he says, even for dairy farmers who have likely built up an immunity against many pathogens found in fresh milk.

"There is not a choice on my part between pasteurized and natural," he says. "The body's ability to be nourished by both products is the same."

As for Schmidt, Saunders says the farmer should follow the law until such time as the law is changed.

"A motorcyclist must wear a helmet on the highway. If you believe in freedom of choice, you

should oppose that law, too. But it exists because the general consensus is that helmets save lives. The same analogy can be drawn to food."

THE RAW MILK DEBATE

FOR:

- Proponents say informed consumers have the right to choose food they want and say raw milk:
- Tastes better and has more health benefits than milk found in a supermarket.
- Contains beneficial bacteria and antibodies, otherwise killed by pasteurization.
- Is easier to digest.

AGAINST:

- Health officials say purported benefits of drinking unpasteurized milk do not outweigh proven risks, and that raw milk:
- Contains potentially deadly pathogens, including salmonella, listeria and E. coli.
- Is especially risky for young children, seniors and those with compromised immune systems.
- Is linked to outbreaks of disease.

THE CHARGES:

Michael Schmidt is facing 20 charges:

- 3 counts under the Health Protection and Promotion Act (HPPA) for failing to obey a written order of a public health inspector, laid by Grey Bruce Health Unit.
- 7 counts under the HPPA for selling and 7 counts under the same act for distributing unpasteurized milk and unpasteurized milk products, laid by MNR.
- 2 counts under the Milk Act for operating a plant without a licence, laid by MNR.
- 1 additional count under the Milk Act for carrying on business as a distributor of fluid milk products without a licence laid by MNR.

Bodies involved in the investigation: Ministry of Health, Ministry of Agriculture, Ministry of Natural Resources, Grey-Bruce Public Health Unit, York Public Health Unit.

Source: Attorney General's Ministry