

REGULATE HUMAN BREAST MILK BANKS, COMPANIES, AND COOPERATIVES

Phone: (517) 373-8080
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House Bill 4206 as introduced
Sponsor: Rep. Erika Geiss
Committee: Health Policy
Complete to 9-28-15

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4206 would create a new law to regulate human breast milk banks, companies, and cooperatives. Additionally, the new statute would provide for the education and support of breastfeeding mothers, and place the responsibility for enforcing the program with the Michigan Department of Health and Human Services. If enacted into law, the bill would take effect January 1, 2016.

A more detailed description of the bill follows.

House Bill 4206 advances standards set by the Human Milk Banking Association of North America that would apply to *for-profit* human breast milk banks, companies, or cooperatives. The bill would not apply to mother-to-mother milk sharing groups. Additionally, no screening test would be required to be performed on human milk collected from a mother exclusively for her own child. Further, the bill specifies that procuring, processing, storing, distributing, or using human milk for the purpose of infant human consumption from a *non-profit* breast milk bank is a 'rendering of a service' and is not the sale of human milk for profit or financial gain.

Hospital Responsibilities; Standards. Under the bill, a hospital or organization that collected, processed, stored, or distributed human milk (either from a mother exclusively for her own child or from a mother to nourish a child other than her own) would be required to comply with the standards, ethical practices, and guidelines of the Human Milk Banking Association of North America, unless the Department of Health and Human Services approved alternate standards.

Responsibilities of For-Profit Milk Banks, Companies, & Cooperatives. The bill requires that for-profit milk banks, companies, and cooperatives providing financial compensation or shares in stock, comply with the Human Milk Banking Association of North America, or with more stringent guidelines for safe procurement, processing, storing, or distributing of human breast milk.

Under the bill, the for-profit organization could only accept milk from a mother who was at least 180 days postpartum. Further, the for-profit organization could not remit payment to a participating mother until at least 28 days after receipt and acceptance of the expressed human breast milk.

Community partnerships. The bill requires that a for-profit organization work with local, community-based lactation support groups to provide ongoing breastfeeding education and lactation support for its participating mothers, to ensure that the needs of the mothers' children are the priority, and that their children are adequately nourished by the mothers' own breast milk.

Milk Distribution to Hospitals, Foster & Adoptive Parents of Newborns. A for-profit human breast milk organization must ensure that, at a minimum, 50 percent of the human breast milk produced by participating mothers in a specific locality is distributed locally. Specifically and under the bill, the milk must be distributed 1) to hospitals for their neonatal intensive care units; or 2) to local non-profit human breast milk banks, so they can provide milk for their vulnerable premature or ill infants; or 3) to foster parents or adoptive parents who wish to provide breast milk for their newborn or infant children.

Annual Audit. The bill requires that a for-profit milk bank operating in Michigan conduct an annual audit, at its own expense. That audit must clearly demonstrate whether or not the distribution of collected breast milk complies with the priorities set out in the bill—ongoing breastfeeding education, lactation support, and the prioritization of service to participating mothers and their children. The annual audit would be submitted to the Department of Health and Human Services (DHHS) no later than January 31 each year, the first report being due in January 2017.

Noncompliance. A for-profit milk bank that did not submit its annual audit would be responsible for a fine, to be determined by the director of DHHS. Any fine money collected would be credited, by the state treasurer, to the department for use in infant mortality prevention projects.

FISCAL IMPACT:

House Bill 4206, as introduced, has modest fiscal implications for the Department of Health and Human Services, the successor agency to the Department of Community Health, which may total up to \$70,000. Under the bill, the Department is responsible for receiving annual audit reports from for-profit human breast milk banks operating in the state, and establishing a fine for noncompliance. Any revenue from fines would be available to the department for infant mortality prevention projects. The bill allows the department to establish alternative standards for human breast milk banks from those otherwise required. Given the current low number of existing human breast milk banks in Michigan, these responsibilities would likely require less than a full-time staff person on an ongoing basis at an estimated cost of \$70,000 for 1/2 FTE position, unless the Department can utilize existing resources and personnel.

Legislative Analyst: J. Hunault

Fiscal Analysts: Susan Frey

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