

## FARMING WITHOUT A LICENSE IS A CRIMINAL ENTERPRISE

source: Doreen Hannes

Throughout this nation it is becoming commonplace for state and federal governments to raid food buying clubs, private food co-ops, family farms and even micro farms. The reason these raids are taking place is that the FDA has determined that we are not smart enough to decide what we want to eat. They are making sure that we have a hard time getting food that is actually good for us and fulfilling their public health mission. This is the first in a three article series profiling two cases in the state of Missouri to illustrate what will be terrifically commonplace once Senate Bill 510, (The Food Safety Modernization Act-third article) is in place.

In Missouri we have families, and a food freedom movement, that are being persecuted, and I use that term intentionally, with accusation aforethought. The first family I am going to profile is the Bechard's of Conway, Missouri. They are facing prosecution by Attorney General Koster for violating the following State statute and were also taken to court -and convicted- by Green County Health Department for "operating a food establishment without a permit". Basically, they are being taken to court for trying to make a living from their lawful product. Their crime? Providing people with fresh milk that tested out to be perfectly fine and had no complaints or reports of illness associated with it at all.

The Bechard's have a small farm, where they raise sheep, poultry and cattle and sell their products directly to consumers. They milk six cows and are not a "graded" facility. They deliver milk to their customers at a pre-arranged pick up point in the parking lot of Mama Jeans Natural Foods in Springfield, Missouri. In April of 2009, their eldest daughters were delivering the milk and were approached by someone wanting to buy a half-gallon of milk. Since they had it, they sold it to the man. Two weeks later, the same thing occurred. These two on the spot sales were to employees of the Green County Health Department.

The Health Department tested the milk. What they found was that there was no problem with the milk at all. The first half-gallon was kept overnight possibly on a kitchen counter and did have a high somatic cell count. The second batch was taken to the lab within an hour and had a very low somatic cell count attesting to the Bechard's cleanliness. These two sales landed the Bechard's in court.

Let's look at the state charge first. Here is the pertinent Missouri law on milk :

State milk inspection required on all graded fluid milk or milk products--pasteurization required, exception.

196.935. No person shall sell, offer for sale, expose for sale, transport, or deliver any graded fluid milk or graded fluid milk products in this state unless the milk or milk products are graded and produced, transported, processed, manufactured, distributed, labeled and sold under state milk inspection and the same has also been produced or pasteurized as required by a regulation authorized by section 196.939 and under proper permits issued thereunder. Only pasteurized graded fluid milk and fluid milk products as defined in subdivision (3) of section 196.931 shall be sold to the final consumer, or to restaurants, soda fountains, grocery stores, or similar establishments; except an individual may purchase and have delivered to him for his own use raw milk or cream from a farm.

Evidently, Missouri Attorney General Koster doesn't understand either the term "graded" or the meaning of the word "except", and is opting for redefining that word by putting a family's livelihood on the line and moving forward with prosecution of Armand Bechard for selling his milk to individuals who want the product. Koster's argument for pursuing a case against the Bechard's is that he has gone back and read through the floor arguments from 1972 when the law was enacted in Missouri and believes that the legislators didn't mean what they actually wrote into law. Koster has also consulted with the bureaucracy that is "in charge" of milk in Missouri, "The Milk Board". Incidentally, the new chair of the Milk Board is also on the Green County Health Department and is driving the charges against the Bechard's.

For years, the Milk Board has periodically threatened providers of fresh milk with fines and penalties if they continue to sell their product. Usually, the threats come after the Milk Board has made telephone calls to providers of milk listed on a Weston A. Price website called Real Milk. We are listed on that site, and from three weeks to two months prior to actions from the Milk Board instructing people to "cease and desist" or be fined for selling milk, we receive calls for milk from several hours away asking if we have milk for sale; and then I know something is about to happen. This is exactly what happened before the "sting" on the Bechard family occurred.

In the two most recent state legislative sessions there has been a bill put forth to clarify that it is lawful for people to sell their milk to individuals for their own use. Both times, the Milk Board maintained that it wasn't necessary and once they even wrote a letter for dissemination clarifying that it was indeed legal to sell milk from a farm directly to an individual.

Attorney General Koster asked the Bechard's to sign a consent decree that states they will never deliver milk at a common pick up point again and instead will take all milk directly to the residence of the people wanting the milk. It also stipulates that the Bechard's are guilty of violating state law and amounts to a confession of guilt.

Not too surprisingly, this wasn't an appealing way to resolve the issue for the Bechard's. We are talking about a product that is not stable in all temperatures and that needs to stay cool so it doesn't go bad and breed bacteria. If they were to drop off product at residences, there is no telling how long the product could be without refrigeration. People do still work, and most families have both the husband and wife working, so the chances of meeting people at their homes when delivery is possible for all parties is small. The Bechard's, like anyone in business, are interested in keeping their customers happy, so increasing the chances of sour milk on the doorstep isn't an idea they want to entertain.

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This case will begin in earnest this fall, and the availability of fresh milk in Missouri is dependent on the outcome of this State case against the Bechard's.

Armand Bechard says, "In 2003 we called and asked the Health Department if we needed to do anything special to sell our milk and they told us that in our situation, according to the law, we were a farm and therefore exempt; we needed no permits at all. That's what the code in Green County actually states, and we have been selling milk since then in this manner." Asked if there had been any changes to the municipal code and Armand asserts that there are no changes regarding farm products. The only thing offered in explanation of the suit against them was that the Health Department had adopted the 1999 FDA Food Code. So, evidently, if someone from the Health Department says you need a permit, then you need a permit; even if state and county law don't require it. Never mind what the law actually says, we're now being run by the whimsy of agents running off initiatives of Federal bureaucracies. It's not too comforting for those of us who tend to think unregulated thoughts.

Common sense would dictate that the Bechard case should be a non-issue. No reports of illnesses and no complaints whatsoever about the product, no clear violation of the law, should be no problem, right? But we can't apply logic to the legal system. The judge found Armand Bechard guilty of violating the Green County Health Department's adoption of the 1999 FDA Food Code by "operating a food establishment without a permit". The family pick up truck used to deliver milk is the "establishment". The County was asking for \$1,000 fine and 6 months in jail for selling an unregulated product that caused no harm to any one. The sentence rendered was a \$250 fine. Bechard is appealing and has been awarded a new trial.

So the question becomes, what is the Food Code? It is currently a nearly 700 page document for cities, counties, states and local governments to write regulations for their citizens. The initiatives in the Food Code are not necessarily Federal law, they are generally desires of the FDA and are more in line with the international Food Code of Codex Alimentarius than actual regulations or statutes from the Federal government. Wholesale adoption of the Food Code is a dangerous thing for freedom, yet nearly all states have adopted some version as part of their Health Department program. Cooperative Agreements between state and local governments to implement the Food Code are usually accompanied by a big sweaty pile of your money. One of these initiatives included in the Food Code is Healthy People 2020. This is a program through HHS that is supposed to make us all quite healthy. One objective of Healthy People 2020 is to increase the number of states that prohibit the sale or distribution of unpasteurized dairy products.

Missouri is a state with a very obstinate strain of people, especially in the Ozarks region of the state where the Bechard's and Morningland Dairy (the other issue I am profiling for you in this series) are located. The Missouri Mule is famous because it adequately displays the characteristics of the citizens of the state. As a general rule, we won't be pushed or coerced into doing something we don't want to do. I personally find it a little more than interesting that the MIAC Report, targeting close to 70% of the citizens of the state and these recent attacks on raw dairy are happening here, where resistance is great.

If Missouri falls to full implementation of the Food Code and Healthy People 2020 the rest of the states will likely be little competition for the overreaching federal government controls brought to full enforcement by the Food Safety Modernization Act (S510). Meanwhile, we continue to fight for the right to eat what we choose, and the Bechard family faces increasing court costs. The bottom line of all of this is that if you are at all interested in agriculture, meaning you have an interest in continuing to eat food, you must become an 'agvist'. No Farmers-No Food.

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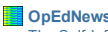
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