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BILL ANALYSIS



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Senate Bill 143 (as introduced 2-18-15)
Sponsor: Senator David Knezek
Committee: Health Policy

Date Completed: 5-27-15

CONTENT

The bill would create a new statute to establish regulations applicable to hospitals, nonprofit organizations, and for-profit milk banks, companies, and cooperatives engaged in the procurement, storage, and distribution of human breast milk for human consumption. Specifically, the bill would do the following:

- **Indicate that breast milk services provided by a nonprofit milk bank would be considered a rendering of service rather than sales for profit or financial gain.**
- **Require a hospital, organization, or for-profit entity that provided breast milk services to comply with certain standards or guidelines.**
- **Prohibit a for-profit entity from accepting milk from a mother who was less than 180 days postpartum or paying a participating mother sooner than 28 days after accepting the milk.**
- **Require a for-profit entity to work with local lactation support groups to provide breastfeeding education and support.**
- **Require a for-profit entity to ensure that at least half of the breast milk produced in a specific locality was distributed to hospital neonatal intensive care units and nonprofit milk banks for premature or ill infants and the children of foster and adoptive parents.**
- **Require a for-profit entity annually to conduct an audit and report to the Department of Health and Human Services (DHHS).**
- **Establish a fine for noncompliance with the audit and reporting requirements, and dedicate the fine revenue to infant mortality prevention projects.**
- **Provide that the bill would not apply to mother-to-mother milk sharing groups.**

The bill would take effect on January 1, 2016.

The bill specifies that procuring, processing, storing, distributing, or using human milk for the purpose of infant human consumption from a nonprofit human breast milk bank would be a rendering of service and not the sale of human milk for profit or financial gain.

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 have to comply with the Human Milk Banking Association of North America's standards, ethical practices, and guidelines for collecting, processing, storing, or distributing human milk, unless the DHHS approved alternate standards.

A screening test would not have to be performed on human milk collected from a mother exclusively for her own child.

A for-profit milk bank, company, or cooperative that provided financial compensation or shares in stock for procuring, processing, distributing, or using human milk for the purpose of human consumption would have to comply with the Human Milk Banking Association or more stringent guidelines for safe procurement, processing, storage, or distribution.

A for-profit entity working with breastfeeding mothers in Michigan could accept milk only from a mother who was at least 180 days postpartum. Such an entity could not remit payment to a participating mother until at least 28 days after receiving and accepting the expressed breast milk.

The bill would require a for-profit milk bank, company, or cooperative to 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 nursing children of participating mothers were the priority and were adequately nourished by the mother's own breast milk.

A for-profit entity also would have to ensure that at least 50% of the breast milk produced by participating mothers in a specific locality was distributed to Michigan hospitals for their neonatal intensive care units, or to local nonprofit milk banks to provide milk for vulnerable premature or ill infants or for distribution to foster or adoptive parents in Michigan who wished to provide breast milk for their newborn or infant children.

Additionally, at its own expense, a for-profit entity would have to conduct an annual audit that clearly demonstrated whether the distribution of the collected milk complied with the bill's requirements regarding breastfeeding education and lactation support. The entity would have to submit a report with the audit's findings to the DHHS by January 31 of each year, beginning in 2017. An entity that did not comply with the audit and reporting requirements would be responsible for a fine to be determined by the DHHS Director. The State Treasurer would have to credit the fine money to the DHHS for use in infant mortality prevention projects.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would have a limited fiscal impact on the Department of Health and Human Services. The Department would have to receive audit reports from for-profit milk banks and could create standards on collection, processing, storage, and distribution of human milk. The Department also could receive fine revenue from entities that did not comply with audit and reporting requirements, with the fine revenue designated for infant mortality prevention.

Fiscal Analyst: Steve Angelotti

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.