

Raw milk status:

- City of Austin is not planning to pursue a citation against the courier who was stopped on May 26.
- But the City Attorney's letter was very ambiguous and leaves the door wide open for future stops and prosecutions.
- A raw milk courier is facing a citation from Harris County Health Department for not having a food establishment license; her court date is August 24th
 - This is the same charge that the Austin driver would have faced had the City moved forward.
- Remember: even if these couriers wanted to get licensed, the state regulations (of which the cities are well aware) would then prevent them from taking possession of raw milk – so it's effectively a ban on the transportation of raw milk.
- The Department of State Health Services' (DSHS) new Commissioner has made it very clear that he thinks raw milk should not be legal.
- DSHS has told legislators that it plans to provide a "guidance document" about the raw milk regulation, which I would assume will be as limiting as they think they can get away with.
 - Guidance documents are not binding – they are the agency's interpretation of the binding regulations.

At the workgroup meeting, there seemed to be interest in looking at this issue from the perspective of the implications for all local foods, i.e. supporting group/community efforts to access and distribute locally produced food. There are a couple of developments that are relevant to that aspect:

- It's not news, but I didn't know this at the time: back in the first part of the year, the City of Austin looked into UberEats and other food delivery services. Based on the news reports from KXAN, the city decided that these services did not need permits. I've done an open records act request to the city to get more information. I think this was the right decision by the city – and I think we should urge that the city treat local food producers with at least as much flexibility as the delivery businesses.
- DSHS is about to propose new regulations on the transportation of food. They are based on the FDA's regulations under FSMA, but with an important difference: FDA has announced that it plans to waive the requirements for businesses that are providing the food directly to consumers, while DSHS has made no mention of that aspect
 - There is an exemption for businesses that gross less than \$500,000 annually – but with the small profit margins for food, that is still a very small business.

- The DSHS staff will be presenting the draft rule to their policy Council at a public meeting on August 18th. If the Council approves it, it will then be published formally as a proposed rule and go through the notice & comment process. However, my experience is that the staff rarely makes any significant changes once the proposed rule is published.

Possible action items for the food policy council to consider:

- Statement of support for DSHS Council to slow down the process of the new regulations and put together a stakeholder group to discuss **before** publishing
 - This would need to be done before the Council meeting on August 18th
- Seeking clarification from the City of Austin health department that raw milk drivers will not be stopped or cited in the future
- Local ordinance addressing local food distribution
 - Exemptions to retail food establishment provisions
 - Exemptions from transportation regulations