



Farm-to-Consumer
Legal Defense Fund®

Raw Milk Evolutions

By Steve Bemis, Esq. – January 12, 2012

Page 1 of 2

It has been three years since my "11 Great Thoughts" were first proposed. Following the past year filled with heightened conflict, both against and within the raw milk community, it seems appropriate to review them. Some state regulators and especially federal authorities continue a relentless campaign against raw milk and free choice in food. A grand jury has been empaneled, raids have occurred, litigation proceeds defending farmers and attempting to change the law, legislation is being considered in some places, yet the growth in raw milk consumption increases notwithstanding.

The 11GT were proposed in January, 2009 as an attempt to articulate what I then saw as the principal issues in the raw milk controversy, so that a more sensible policy-level discussion could be framed. Some of that discussion actually occurred.

In March 2010, I engaged in an exchange with attorney Bill Marler comparing his and my approaches to the various issues in raw milk, since Bill had separately proposed a series of issues for discussion. He and I traded views in an exercise which I thought then, and still think, was a helpful dialogue. I repeated that exchange on [January 9, 2011](#) on David Gumpert's blog, The Complete Patient (<http://tinyurl.com/d82vjjc>); and I've written a couple of articles expanding on aspects of the 11GT (see [search](#) listing at <http://tinyurl.com/cyhpo8h>).

With apologies to those who may actually have read the 11GT in the past, and in an attempt to entice others who haven't, I repeat them here (omitting Bill's comments, which can be seen in the first link provided above):

11GT#1 - Get the FDA totally out of regulating interstate commerce in raw milk which is supplied in final package form for human consumption.

11GT#2 - There should be some kind of consistent identification of raw milk and raw milk products coupled with standard warning language, whether basic such as current restaurant-style warnings, or more elaborate such as current California warnings.

11GT#3 - Claims for health benefits may be made by any customer in the producer's advertising or sales forum only if in the form of personal testimonials or peer-reviewed scientific papers; or by the producer in the producer's advertising or sales forum only if in the form of a statistically accurate summary of unsolicited customer testimonials or peer-reviewed scientific papers.

11GT#4 - Sales at retail, where the consumer is likely not to know the producer, should have increased testing under state law.

11GT#5 - Transactions (whether sales, cow shares or otherwise depending on state law) direct from farmer to consumer whether on the farm or otherwise, or from farmers with herds smaller than a yearly-average [100] milking cows, should not be regulated other than by individual agreement.

11GT#6 - Parents are free to feed their children whatever foods they choose. ••

11GT#7 - Farmers and individuals who provide raw milk or raw milk products to "others" should have legal protection in litigation (absent reckless behavior or actual knowledge of pathogens or other significant risk factors) so long as the proper identification and warnings (as in, #2) were provided and, in the case of "others" who are minors, so long as the identification and warnings were effectively communicated to the minor's parent or guardian prior to consumption. ••



Farm-to-Consumer
Legal Defense Fund®

Raw Milk Evolutions

By Steve Bemis, Esq. – January 12, 2012

11GT#8 - Educational materials (directed to both producers and consumers) for the safe production, handling and processing of raw milk and raw milk products should be developed and widely distributed generally and in the producer's advertising and sales media. •

11GT#9 - An open, collaborative, transparent and scientifically rigorous and neutral approach should be taken by producers, consumers and public health officials in all instances of disease outbreak with a common commitment both to protect public health and to protect continued viability of responsible producers. Public health warnings which are not connected to outbreaks of illness or warnings which prove to have been unfounded, shall be followed by public health advisory followups which are communicated with the same level and extent of publicity as the initial warning, including exoneration of producers as appropriate. •

11GT#10 - Independent research (including analyses of testimonials and other real-life evidence as well as traditional reductionist studies) should be publicly funded to examine the nutritional value, environmental impacts of production, and the acute and chronic impacts on human health from raw and traditional foods and from industrially-produced foods.

11GT#11 - Broader insurance availability for producers and other risk-sharing approaches should be developed as a counterweight to regulation-by-litigation.

Farmers might consider voluntary production standards such as various kinds of testing protocols OR simply rely on many years of problem-free operation, so as to induce insurers to write policies, otherwise the insurers will want to "go automatic" and insist on compliance with various regulations which is their current typical mode. Similarly, a litigation defense which is founded in compliance with the testing protocols of a voluntary standard or in years of trouble-free operation by simply "looking at the animals and watching what's in the filter", should help to defend against litigation, and ultimately, to reduce litigation.

Last updated 1/12/2012

=====

Hyperlinks for the PDF

January 9, 2011 – *The Complete Patient* Readers Comments, "The Laws on Raw Milk Are Vague for a Reason...So They Can Be Used to Harass and Intimidate--Why the Private Option Is Looking Ever More Attractive; Morningland Case Salvo", 7 January 2011 =
<http://www.thecompletepatient.com/journal/2011/1/7/the-laws-on-raw-milk-are-vague-for-a-reasonso-they-can-be-us.html?currentPage=3#comments>

<http://tinyurl.com/d82vjjc> = <http://www.thecompletepatient.com/journal/2011/1/7/the-laws-on-raw-milk-are-vague-for-a-reasonso-they-can-be-us.html?currentPage=3#comments>

search – Search "11 Great Thoughts" at www.farmtoconsumer.org =
<http://www.farmtoconsumer.org/search-results.html?cx=003694308739973790001%3Atguqrmds2da&cof=FORID%3A11&q=11+Great+Thoughts&sa=Go>

<http://tinyurl.com/cyhpo8h> =
<http://www.farmtoconsumer.org/search-results.html?cx=003694308739973790001%3Atguqrmds2da&cof=FORID%3A11&q=11+Great+Thoughts&sa=Go>