



Free Speech Court Victory Ratified With Gov. Signature

Kansas Legislature cleans up raw milk statute after Kansas Justice Institute lawsuit

Kansas Justice Institute's landmark free-speech victory made its way through the Kansas Legislature with Senate Bill 346 receiving Gov. Laura Kelly's signature. While the bill was signed recently, the legal battle predating this legislative work began three years ago. In 2019, KJI successfully challenged a long-standing and unconstitutional advertising ban on raw milk.

KJI litigation director Sam MacRoberts said this about the gubernatorial approval of SB 346, "I'm pleased everyone understood the importance of our free-speech case by cleaning up the unconstitutional language."

The case began in 2019 when dairy goat farmers, Mark and Coraleen Bunner, sued to overturn the State's prohibition against advertising raw milk away from the farm – and won. Before the suit and victory, it was perfectly legal to sell raw milk to consumers on the farm, however, it was a crime to advertise the sale of raw milk away from the farm.

Coraleen Bunner said during the case, "It's frustrating not to be able to talk about our product. We work hard, our animals work hard, and we want the freedom to talk about our product off our farm."

After the 2019 lawsuit, special interest groups attempted to ban raw milk or even place a Center for Disease Control warning label on the product. Before the Bunnerts' successful suit, the ban prevented them from advertising their raw milk online, posting flyers at local businesses, or talking about the selling of their raw milk to friends or family in town.

While the court declared the advertising ban unconstitutional and stopped its enforcement, the unconstitutional language was still in the statute books, requiring state lawmakers to take action. Similar legislation was considered by the legislature in 2020 but the onset of the COVID-19 epidemic disrupted a vote. The unconstitutional language remained in the statute until the recent passage of SB 346.

SB 346 passed the House overwhelmingly, 119 to 3, and passed the Senate with a 27 to 12 vote before being approved by Governor Laura Kelly on April 11, 2022.

"This was an important and necessary step in making sure people have the right to talk about their work. The government's ban on off-farm speech was totally inappropriate." MacRoberts said.

The final bill states that advertisements of raw milk cannot be misleading and must let consumers know the milk is raw and unpasteurized. Any labels on the package must let consumers know the milk is raw and unpasteurized.

CASE BACKGROUND:

The suit was filed in state court in Topeka, against Mike Beam, the Secretary of the Kansas Department of Agriculture in Autumn 2019; KDA oversaw the Raw Milk Advertising Ban. The Attorney General's Office consented to a judgment declaring the raw milk advertising ban unconstitutional based upon the First and Fourteenth Amendments to the United States Constitution and Section 11 of the Kansas Constitution Bill of Rights.

The initial lawsuit said the ban violates the free speech rights of Mark and Coraleen Bunner, owner of Shepherd's Gate, LLC, a small dairy farm in Pfeifer, Kansas.

The suit was filed by Kansas Justice Institute, a public-interest litigation firm which seeks to protect freedoms guaranteed by the Kansas and United States Constitutions. KJI is part of Kansas Policy Institute.

**For more information, please go to [KansasJusticeInstitute.org](https://kansasjusticeinstitute.org)
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