

An Act Concerning the Establishment of a Connecticut Milk Marketing Board

Section 1 (NEW)

Purpose of the Connecticut Milk Marketing Board

The Milk Marketing Board shall define and serve the public interest by monitoring the cost of supplying and the pricing of white fluid milk products at the farm, dealer (wholesale) and retail levels in the state of Connecticut and promulgating policies that 1) ensure the state a supply of a fresh, wholesome white fluid milk products, 2) promote the supply of such products by enhancing the price to farmers that supply milk to the state when on-farm economic conditions ,including but not limited to low raw fluid milk prices, threaten the survival of such farmers, and 3) promote consumer welfare by establishing price regulations that restrain documented unconscionable, high retail prices

Section 2 (NEW)

Definitions as used in this act.

(1) "Books and records" means any book, ledger, record, account, memoranda or other data pertaining to the purchase and distribution of milk.

(2) "Board" means the Connecticut Milk Marketing Board

(3) "Consumer" means any individual who purchases milk for fluid consumption on or off the premise.

(4) "Department" means the Connecticut department of agriculture.

(5) "Market" means any city, town or parts thereof of this state.

(6) "Milk" means the lacteal secretion of a healthily bovine animal and includes but is not limited to whole milk, skim milk, partially skimmed milk, flavored milk and buttermilk.

(7) "White fluid milk" does not include flavored milk, buttermilk, lactose free milk, and low-carb milk.

(8) "Person" means any individual, partnership, firm, corporation, association or other unit created to conduct business in this state, including state and municipal owned and operated institutions.

(9) "Producer" means any person who produces milk and sells such milk only to dealers.

(10) "Dealer" means any person who purchases or receives milk for sale as the consignee or agent of a producer, or handles for sale, shipment, storage or processing and shall include a producer-dealer and a sub-dealer, but shall not include a store other than an integrated operation.

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57 (11) "Integrated operation" means a person who is a dealer and who also sells at retail the
58 milk which he handles for sale, shipment, storage or processing within this state.

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60 (12) "Producer-dealer" means a dealer who processes and sells milk of their own production.

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62 (13) "Sub-dealer" means any person who does not process milk and who purchases milk
63 from a dealer and sells such milk in the same containers in which he purchased it, but shall
64 not include a store or a person that sells milk for consumption on premise.

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66 (14) "Store" means a grocery store, dairy product store, canteen, milk vending machine
67 operator, milk dispensing operator or any similar commercial establishment or outlet or any
68 other sale where milk is sold to consumers for consumption off the premises.

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70 (15) "Retail sale" means a doorstep delivery and over-the-counter sales by stores.

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72 (16) "Retail store" means a grocery store, dairy product store, or any similar commercial
73 establishment where milk is sold to consumers for consumption off the premises.

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75 (17) "Wholesale sale for on premise consumption" means sale by a dealer to any person,
76 that is not a store, that sells milk for on premise consumption.

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78 (18) "Base price" means Federal Milk Market Order 1 statistical uniform price plus
79 cooperative premiums for 3.5% butterfat milk at Hartford, Connecticut.

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81 (19) "Target price" means the average short run break-even price for Connecticut producers.

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83 (20) "Raw fluid supply price" equals the base price plus any payment per hundredweight by
84 the Board to Connecticut farmers.

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86 (21) "Raw fluid pay price" equals the base price plus any premium paid that is mandated by
87 the Connecticut Milk Marketing Board.

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92 Section 3 (NEW)

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94 Connecticut Milk Marketing Board, organization.

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96 (a) Members. The Connecticut Milk Marketing Board shall consist of the following 5 members:

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98 (1) The Commissioner of Agriculture or the Commissioner's designated agent, ex officio; and

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100 (2) four members, who must be residents of this state. Each shall have no financial interest
101 in the production, processing, distribution or sale of milk products including but not
102 limited to fluid milk products. Each shall be appointed by the Governor, subject to review
103 by the executive and legislative nominations committee of the legislature and subject to
104 confirmation by the legislature.

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107 (b) Members of the Board appointed under subsections (a)(2) and a(3) of this section, shall serve for
108 a term of four years or until their successors are duly appointed and qualified, except that the initial

109 terms of these members are for one, two, three or four years so that the terms of the members of the
110 Board are staggered. A vacancy in the membership of the Board shall be filled by appointment by
111 the Governor.

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114 (c) The members of the Board shall elect a chair. The Board shall employ an executive director, and
115 other employees as the Board determines necessary to assist in the execution of the Board's
116 policies. Such employees shall be considered designated agents of the Board and may argue cases
117 and bring actions before the Board, recommend action to be taken by the Board; present evidence
118 and provide the Board with expert opinions and information. The Board may also seek outside
119 expert services in areas including but not limited to the law, and economics of milk marketing.

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121 (d) The Board shall maintain a suitable office with all necessary equipment and supplies. Each of the
122 members of the Board appointed under the subsection (a)(2) of this section shall receive one
123 hundred dollars for each day the member attends a meeting of the Board plus reasonable travel
124 expenses.

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129 Section 4 (NEW)

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131 Board powers, general.

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134 (a) The Board shall set a target price at Hartford, CT that is deemed sufficient to maintain and
135 promote the state's dairy farming industry. . The Board shall review the target price level on a
136 quarterly or monthly basis taking into consideration changes in the costs of producing fluid milk and
137 the economic well being of the State's dairy farming industry.

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139 (b) The Board shall act as follows:

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141 (1)The Board may hold hearings that elicit testimony from interested parties to gather
142 facts and information.

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145 (2) Whenever the price received by milk producers in this State falls below the target price the
146 Board may ascertain, determine and fix a system of premiums for the various classes and
147 types of white fluid milk sold in this state; and collect such premiums from retailers or dealers
148 that supply retailers, and from dealers for wholesale sales for on premise consumption.

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150 (3) The Board shall use a portion of collected premiums to cover the administrative costs,
151 including but not limited to staff, occupancy, hearing, and policy setting costs, of the Milk
152 Marketing Board.;

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154 (4) The Board shall on a monthly basis pay funds collected net of administrative costs, on a
155 pro rata basis to farmers that supplied milk to the plants that distribute white fluid milk in
156 Connecticut, provided that all such payments to Connecticut farmers shall be pooled and paid
157 out on an equal per cwt basis to Connecticut farmers. The goal of the Board in making such
158 payments shall be to increase raw fluid supply price at Hartford, Connecticut to the target
159 price.

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161 (5) The Board shall limit unconscionable high retail prices and flat milk pricing across white
162 fluid milk with different butterfat content in retail stores. To do this the Board shall set a retail

163 threshold price level to be expressed as a per cent markup over the Raw Fluid Pay Price at
164 Hartford, CT for each type of white fluid milk. Retailers that price above this level may be
165 asked to justify such prices by documenting that costs, including the wholesale price, plus a
166 reasonable return on investment requires such high prices. If such cost justification is absent
167 the Board shall find the party in violation of this law and subject to fines in the amount of \$ X
168 per day until such illegal pricing ceases. .

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171 (c) In administering this act the Board may:

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173 (1) subpoena and examine under oath persons whose activities are subject to the jurisdiction
174 of the commission, including producers, dealers and stores and their officers, agents and
175 representatives; and

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177 (2) subpoena and examine the business records, books and accounts of persons whose
178 activities are subject to the jurisdiction of the commission, including producers, dealers and
179 stores and their officers, agents and representatives.

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181 (d) Any officer of the Board and any agent designated by the Board may sign subpoenas and
182 administer oaths to witnesses.

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184 (e) The Board shall ensure that milk dealers and milk distributors give 30 days' notice before
185 terminating delivery to any customer in their delivery area or in the delivery area of a milk dealer or
186 milk distributor they have purchased. The 30-day notice does not apply to cancellation of milk
187 delivery resulting from a failure to pay bills.

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190 (Section 5 (NEW))

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192 No Supply Channel Distortion

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194 No in-state store operator or person who purchases white fluid milk for on premise consumption may
195 switch to another dealer if, but for the market operations of the Connecticut Milk Marketing Board,
196 that switch would not be profitable.

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199 (Section 6 (NEW))

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201 Board meetings.

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203 (a) The Board shall:

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205 (1) Meet at least quarterly;

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207 (2) keep a record of all its proceedings;

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209 (b) The Board chair may call special meetings of the Board whenever the chair determines a special
210 meeting is necessary or a special meeting has been requested in writing by two or more members of
211 the Board.

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213 (c) The Commissioner of Agriculture or the Commissioner's designated agent shall have no vote
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Section 7 (NEW)

Reporting, records.

Every producer, producer cooperative, milk handler, milk dealer and store shall keep and render to the Board, at such times and in such manner and form as may be prescribed by the rules of the Board, accounts of all business transacted that is related to the production, purchasing, processing, sale or distribution of milk. Such accounts must reasonably reflect, in such detail as the Board considers appropriate, income, expense, assets, liabilities and such other accounting entries as the Board considers necessary, to assist the Board in making its determinations.

Section 8 (NEW)

Interstate conferences and compacts.

The Board shall have power to enter into compacts with legally constituted milk commissions or similar authorities of other states or of the United States of America to effect a uniformity in regulating and insuring an adequate supply of pure and wholesome milk to the inhabitants of this State, to provide uniform control of milk produced in this State and handled in interstate and intrastate commerce.

Section 9 (NEW)

Administrative enforcement.

When the Board, after such investigation as it considers appropriate, believes that a violation of this act, or of any regulation, order or decision of the Board has occurred, the Board may by majority vote, order any person to cease that violation. When issuing any order, the Board shall notify any person who would be aggrieved by the order of their right to a hearing. If a person is aggrieved by an order of the Board, the aggrieved party may request a hearing; such hearing shall be held within thirty days of the date of the hearing request. After such hearing the Board shall publish its findings and issue a final order within thirty days. Any person aggrieved by a final order issued pursuant to this section may obtain judicial review of the order in the Superior Court for Judicial District of Hartford in Hartford. In responding to such a petition, the Board may seek enforcement of its order, including civil penalties for any violation found, and the court, if it upholds the order, may order its enforcement, including civil penalties.

Regulations.

The Board shall adopt regulations to carry out the provisions of this act and regulations that establish procedures to enable the Board and agents authorized by the Board to inspect the records, books and accounts of milk dealers, milk distributors, milk producers and stores selling milk in a location acceptable to the Board.

271
272 Section 10 (NEW)

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275 Section 22-231 is repealed and the following substituted.

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277 Grounds for refusal, suspension or revocation of license.

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279 The Commissioner of Agriculture may refuse to grant or renew a license, or may suspend, revoke or
280 refuse to transfer a license already granted, after the commissioner has determined that the
281 applicant or dealer: (1) Has failed to comply, or has been a responsible member or officer of a
282 partnership or corporation which failed to comply, with any provision of this part or any order, ruling,
283 regulation or direction issued hereunder; (2) has insufficient financial responsibility, personnel or
284 equipment to properly to conduct the milk business; (3) is a person, partnership, corporation or other
285 business entity, in which any individual holding a material position, interest or power of control has
286 previously been responsible in whole or in part for any act on account of which a license was or may
287 be denied, suspended or revoked under the provisions of this part; (4) has failed to file a bond
288 required by the commissioner under the provisions of this part; (5) if located out of the state, has
289 failed to obtain a satisfactory milk sanitation compliance rating from a certified state milk sanitation
290 rating officer or is not in compliance with all laws and regulations of the state pertaining to health and
291 sanitation in the production, processing, handling or sale of milk; (6) has rejected, without
292 reasonable cause, any milk purchased from a producer, or has refused to accept, without either
293 reasonable cause or reasonable advance notice, milk delivered by or on behalf of a producer in
294 ordinary continuance of a previous course of dealing, except when the contract has been lawfully
295 terminated; provided, in the absence of an express or implied fixing of a period in the contract,
296 "reasonable advance notice" shall be construed to mean not less than one week nor more than two
297 weeks; (7) has continued in a course of dealing of such nature as to show an intent to deceive,
298 defraud or impose upon producers or consumers; (8) has violated any stipulation or written
299 agreement entered into with the commissioner in the course of any proceeding under this part; (9)
300 has made a false material statement in his application; [r] (10) has failed to provide information
301 required under this chapter[.]; or has failed to comply with the provisions of this act or any order,
302 rule, or regulation of the Connecticut Milk Marketing Board.