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

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

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

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

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

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

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

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

"Target price" means the average short run break-even price for Connecticut producers.

"Raw fluid supply price" equals the base price plus any payment per hundredweight by the Board to Connecticut farmers.

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

Section 3 (NEW)

Connecticut Milk Marketing Board, organization.

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

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

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

(b) Members of the Board appointed under subsections (a)(2) and (3) of this section, shall serve for a term of four years or until their successors are duly appointed and qualified, except that the initial
terms of these members are for one, two, three or four years so that the terms of the members of the
Board are staggered. A vacancy in the membership of the Board shall be filled by appointment by
the Governor.

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

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

Section 4 (NEW)

Board powers, general.

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

(b) The Board shall act as follows:

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

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

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

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

(5) The Board shall limit unconscionable high retail prices and flat milk pricing across white
fluid milk with different butterfat content in retail stores. To do this the Board shall set a retail
threshold price level to be expressed as a per cent markup over the Raw Fluid Pay Price at Hartford, CT for each type of white fluid milk. Retailers that price above this level may be asked to justify such prices by documenting the costs, including the wholesale price, plus a reasonable return on investment requires such high prices. If such cost justification is absent the Board shall find the party in violation of this law and subject to fines in the amount of $X per day until such illegal pricing ceases.

(c) In administering this act the Board may:

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

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

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

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

(Section 5 (NEW)

No Supply Channel Distortion

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

(Section 6 (NEW)

Board meetings.

(a) The Board shall:

(1) Meet at least quarterly;

(2) keep a record of all its proceedings;

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

(c) The Commissioner of Agriculture or the Commissioner's designated agent shall have no vote except to break a tie.
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.
Section 10 (NEW)

Section 22-231 is repealed and the following substituted.

Grounds for refusal, suspension or revocation of license.

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