

SENATE BILL NO. 806

November 12, 1997, Introduced by Senator GOUGEON and referred to the Committee on Agriculture and Forestry.

A bill to amend 1965 PA 233, entitled "Fluid milk act of 1965," (MCL 288.21 to 288.29a) by amending the title, as amended by 1993 PA 5, and by adding section 1b; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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TITLE

2 An act to regulate the production, transportation, handling,
3 processing, delivery, PRICING, and sale of grade A milk and milk
4 products; to define grade A milk and milk products and to estab-
5 lish standards and requirements for grade A milk and milk pro-
6 ducts; to provide for licenses and producer permits and revoca-
7 tion of licenses and producer permits; to impose certain fees; TO
8 PROVIDE FOR CERTAIN REFERENDA FOR CERTAIN PURPOSES; to require
9 certain security arrangements of milk plants to ensure the prompt

1 payment of producers; to prescribe the powers and duties of
2 certain state departments and officers; to provide for certain
3 milk containers and set standards for certain milk containers; to
4 provide for uniform standards and uniform inspection; to provide
5 for certain remedies and penalties; to provide for the transfer
6 of personnel and the rights of transferred personnel; and to
7 repeal ~~certain~~ acts and parts of acts.

8 SEC. 1B. (1) AS USED IN THIS SECTION:

9 (A) "CLASS I MILK" MEANS THAT TERM AS DEFINED UNDER 7
10 C.F.R. SECTION 1040.40 AND 7 C.F.R. SECTION 1044.40.

11 (B) "COOPERATIVE ASSOCIATION" MEANS ANY ASSOCIATION OF MILK
12 PRODUCERS AUTHORIZED BY THE COOPERATIVE MARKETING ASSOCIATION
13 ACT, 42 STAT. 388 (1922); 7 U.S.C. 291, QUALIFIED TO DO BUSINESS
14 IN THIS STATE, HAS ITS ENTIRE ACTIVITIES UNDER CONTROL OF ITS
15 MEMBERS, AND EXERCISES FULL AUTHORITY IN THE MARKETING OF MILK
16 FOR ITS MEMBERS.

17 (C) "DEALER" MEANS A PERSON WHO OPERATES A PLANT IN THIS
18 STATE IN WHICH GRADE A MILK IS RECEIVED FOR THE PURPOSE OF PRO-
19 CESSING AND PACKAGING FOR CLASS I MILK PURPOSES.

20 (D) "GRADE A MILK" MEANS MILK AS DESCRIBED IN SECTION 1.

21 (E) "MARKET AREA" MEANS THE AREA THE DIRECTOR DESIGNATES AS
22 A MARKET AREA AND IS THE AREA DESCRIBED IN 7 C.F.R. SECTION
23 1040.2 OR THE AREA DESCRIBED IN 7 C.F.R. SECTION 1040.2 TOGETHER
24 WITH THE AREA DESCRIBED IN 7 C.F.R. SECTION 1044.5, OR THE ENTIRE
25 STATE.

26 (F) "MILK HANDLER" MEANS A PERSON WHO OPERATES A PLANT
27 EQUIPPED WITH STATIONARY MILK HOLDING FACILITIES IN THIS STATE IN

1 WHICH GRADE A MILK IS RECEIVED FOR PROCESSING, ASSEMBLY, OR
2 SHIPPING.

3 (G) "MILK PRODUCER" MEANS ANY PERSON WHO PRODUCES MILK IN
4 THIS STATE AND IS LICENSED BY THE DEPARTMENT TO SELL OR OFFER FOR
5 SALE GRADE A MILK AND WHOSE GRADE A MILK IS DELIVERED TO A MILK
6 HANDLER IN THIS STATE.

7 (2) THE DIRECTOR OF THE DEPARTMENT SHALL DESIGNATE 1 OR MORE
8 MARKET AREAS FOR PURPOSES OF THIS SECTION AND SHALL CONDUCT A
9 REFERENDUM TO DETERMINE WHETHER MILK PRODUCERS WHOSE MILK IS
10 DELIVERED TO A MILK HANDLER IN THE MARKET AREA AGREE TO HAVE THE
11 MINIMUM PRICES ESTABLISHED PURSUANT TO THIS SECTION ON CLASS I
12 MILK TO BE PAID TO MILK PRODUCERS BY DEALERS IN THE MARKET AREA.
13 THE DIRECTOR SHALL CONDUCT THE REFERENDUM WITHIN 60 DAYS AFTER
14 THE EFFECTIVE DATE OF THIS SECTION. THE AFFECTED MILK PRODUCERS
15 ARE CONSIDERED TO HAVE ASSENTED TO THE ESTABLISHMENT OF MINIMUM
16 PRICES ON CLASS I MILK TO BE PAID TO MILK PRODUCERS BY DEALERS IN
17 A MARKET AREA IN THE STATE PURSUANT TO THIS SECTION IF MORE THAN
18 50% BY NUMBER OF THOSE VOTING ASSENT TO THE PROPOSAL. FOR PUR-
19 POSES OF REFERENDA UNDER THIS SECTION, A MILK PRODUCER IS ENTI-
20 TLED TO 1 VOTE REPRESENTING A SINGLE FARM.

21 (3) THE DIRECTOR SHALL DETERMINE A MINIMUM PRICE FOR CLASS I
22 MILK TO BE PAID TO MILK PRODUCERS BY DEALERS IN THE MARKET AREA.
23 A MINIMUM PRICE ESTABLISHED BY THE DIRECTOR SHALL TAKE EFFECT ON
24 THE FIRST DAY OF THE MONTH FOLLOWING THE ESTABLISHMENT OF THE
25 PRICE BY THE DIRECTOR. IN DETERMINING A MINIMUM CLASS I PRICE,
26 THE DIRECTOR SHALL TAKE INTO CONSIDERATION AT LEAST ALL OF THE
27 FOLLOWING:

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1 (A) THE FEDERAL ORDER CLASS I MINIMUM PRICE CURRENTLY BEING
2 PAID BY DEALERS AS REQUIRED UNDER 7 C.F.R. SECTIONS 1000 TO
3 1199.

4 (B) THE COST OF MILK PRODUCTION TO MILK PRODUCERS IN THE
5 STATE.

6 (C) THE LEVEL OF MILK PRICES PAID TO MILK PRODUCERS IN
7 ADJOINING STATES.

8 (D) THE COST OF MILK TO DEALERS LOCATED IN ADJOINING
9 STATES.

10 (E) THE INTERESTS OF THE GENERAL PUBLIC.

11 (4) THE DIRECTOR SHALL CONDUCT A PUBLIC HEARING IN CONNEC-
12 TION WITH ESTABLISHING OR CHANGING A MINIMUM CLASS I PRICE, AND
13 THE DIRECTOR SHALL ISSUE A DECISION ON THE MINIMUM CLASS I PRICE
14 WITHIN 30 DAYS AFTER THE PUBLIC HEARING. A MINIMUM CLASS I PRICE
15 ESTABLISHED BY THE DIRECTOR FOR A MARKET AREA SHALL NOT EXCEED
16 \$1.25 MORE THAN THE APPLICABLE FEDERAL ORDER CLASS I MINIMUM
17 PRICE DETERMINED PURSUANT TO 7 C.F.R. SECTIONS 1000 TO 1199 FOR
18 THAT MARKET AREA.

19 (5) DEALERS SHALL PAY THE DIRECTOR, ON OR BEFORE THE FIF-
20 TEENTH DAY OF EACH MONTH, THE DIFFERENCE BETWEEN THE MINIMUM
21 PRICE FOR CLASS I MILK SET BY THE DIRECTOR FROM TIME TO TIME PUR-
22 SUANT TO THIS SECTION AND THE APPLICABLE FEDERAL ORDER CLASS I
23 MINIMUM PRICE DETERMINED PURSUANT TO 7 C.F.R. SECTIONS 1000 TO
24 1199 FOR THE PREVIOUS MONTH. THE DIRECTOR SHALL EQUALIZE THESE
25 PAYMENTS AND FORWARD THE PAYMENTS TO DEALERS WHO PURCHASE MILK
26 DIRECTLY FROM MILK PRODUCERS IN THE MARKET AREA OR TO THOSE MILK
27 PRODUCERS' COOPERATIVE ASSOCIATIONS SO THAT ALL MILK PRODUCERS

1 DELIVERING GRADE A MILK TO MILK HANDLERS IN THE MARKET AREA SHARE
2 EQUALLY, IN PROPORTION TO THEIR PRODUCTION OF GRADE A MILK DELIV-
3 ERED TO MILK HANDLERS IN THE MARKET AREA, THE AMOUNTS BY WHICH
4 THE MINIMUM PRICE FOR CLASS I MILK SET PURSUANT TO THIS SECTION
5 EXCEED THE APPLICABLE FEDERAL ORDER CLASS I MINIMUM PRICE. THIS
6 PAYMENT SHALL BE MADE BY THE SEVENTEENTH DAY OF EACH MONTH. THE
7 DIRECTOR MAY CONTRACT WITH A BANK OR OTHER DEPOSITORY AUTHORIZED
8 TO DO BUSINESS IN THIS STATE OR WITH A CERTIFIED PUBLIC ACCOUN-
9 TANT FOR THE EQUALIZATION SERVICES DESCRIBED IN THIS SUBSECTION.
10 THE DIRECTOR SHALL RETAIN AN AMOUNT NOT TO EXCEED 1/4 CENT PER
11 HUNDREDWEIGHT OF MILK RECEIVED BY THE DEALERS IN THE STATE IN
12 ORDER TO ADMINISTER THIS SECTION IN THE MANNER THE DIRECTOR CON-
13 SIDERS NECESSARY.

14 (6) UPON WRITTEN PETITION REQUESTING TERMINATION SIGNED BY
15 35% OF THE MILK PRODUCERS WHOSE MILK IS DELIVERED TO A MILK HAN-
16 DLER IN A MARKET AREA DESIGNATED PURSUANT TO THIS SECTION, THE
17 DIRECTOR SHALL CONDUCT A REFERENDUM TO DETERMINE WHETHER THE
18 AFFECTED MILK PRODUCERS DESIRE TO CONTINUE TO HAVE THE MINIMUM
19 PRICE FOR CLASS I MILK TO BE PAID TO MILK PRODUCERS BY DEALERS IN
20 THE MARKET AREA DETERMINED ACCORDING TO THIS SECTION. THE
21 AFFECTED MILK PRODUCERS ARE CONSIDERED TO HAVE ASSENTED TO THE
22 TERMINATION OF AN ASSESSMENT IMPOSED UNDER THIS SECTION IF MORE
23 THAN 50% BY NUMBER OF THOSE VOTING FAVOR TERMINATION.

24 (7) THIS SECTION IS CONSIDERED TO BE AN EMERGENCY MEASURE
25 NECESSARY FOR THE PRESERVATION OF THE PUBLIC HEALTH, SAFETY, AND
26 WELFARE ON THE BASIS THAT THE CONTINUED PRODUCTION OF ADEQUATE
27 SUPPLIES OF MILK IN THE STATE IS THREATENED BY A DECLINE IN

1 PRICES PAID TO MILK PRODUCERS. THEREFORE, THE MINIMUM CLASS I
2 PRICE TO BE PAID TO MILK PRODUCERS AFTER THE EFFECTIVE DATE OF
3 THIS SECTION SHALL BE \$1.00 PER HUNDREDWEIGHT MORE THAN THE
4 APPLICABLE FEDERAL ORDER CLASS I MINIMUM PRICE AND THAT MINIMUM
5 PRICE SHALL CONTINUE UNTIL THE AMENDMENT IS DISAPPROVED IN THE
6 REFERENDUM PROVIDED FOR IN SUBSECTION (2) OR (6) OR UNTIL THE
7 MINIMUM CLASS I PRICE IS CHANGED BY THE DIRECTOR PURSUANT TO A
8 DETERMINATION MADE UNDER SUBSECTION (3).

9 (8) THIS SECTION IS REPEALED EFFECTIVE DECEMBER 31, 2002.