

# HOUSE BILL REPORT

## ESB 5476

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*As Passed Legislature*

**Title:** An act relating to the marketing of milk.

**Brief Description:** Affecting the marketing of milk.

**Sponsor(s):** Senators Bailey, Barr, Hansen, Anderson, Conner, Newhouse, Gaspard and Bauer.

**Brief History:**

Reported by House Committee on:

Agriculture & Rural Development, March 28, 1991, DP;

Passed House, April 18, 1991, 83-14;

Passed Legislature, 83-14.

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**HOUSE COMMITTEE ON  
AGRICULTURE & RURAL DEVELOPMENT**

**Majority Report:** *Do pass.* Signed by 10 members: Representatives Rayburn, Chair; Kremen, Vice Chair; Nealey, Ranking Minority Member; P. Johnson, Assistant Ranking Minority Member; Chandler; Grant; R. Johnson; Lisk; McLean; and Rasmussen.

**Staff:** Kenneth Hirst (786-7105).

**Background:** The state's Milk Pooling Act was enacted in 1971. Under the act, the director of the Department of Agriculture is authorized, under certain circumstances, to prescribe marketing areas, establish pooling arrangements, and formulate marketing plans for milk. The area and plan must be approved by a referendum of affected producers. Two-thirds of the producers who vote on the referendum must approve the area and plan.

Once a plan is approved for an area, no milk dealer governed by the plan may handle milk without obtaining an annual license from the director. An assessment is levied on all milk sold or received in an approved marketing area. The assessment is paid by the producers of the milk and is in an amount set by the director which does not to exceed five cents per 100 pounds of milk. The assessments are to be used for carrying out the plan.

Certain milk producers who act as dealers for their own milk are exempted from the provisions of the act and any plan

approved under it. Nothing in the act permits or authorizes the development of conditions of monopoly in the production or distribution of milk.

**Summary of Bill:** Setting Prices for Milk. The marketing plans which the director of the Department of Agriculture may propose and, if approved, enforce under the Milk Pooling Act may now provide for pricing arrangements. The director may establish classifications of processed milk and milk products and a minimum price, or formula for determining that price, to be paid by milk dealers for milk used to produce each class of product. In determining this price or formula, the director must consider: the cost of producing fluid milk for human consumption; transportation costs; milk prices in regions outside of the state which influence prices in marketing areas; demand for milk; and alternative enterprises available to producers. The prices may reflect adjustments based on the value of component parts of each producer's milk.

The director does not have the authority to set retail prices. The director may require that payments be made by dealers to producers, as under current law, or to cooperative associations of the producers. The Department of Agriculture may hold joint hearings with authorized officers and agencies of other states or the federal government and may enter joint agreements with these entities for carrying out the act. The agreements may include those for exchanging information regarding prices paid to producers for milk transported from one state to another.

Approving Areas and Plans. A referendum establishing a market area and pooling plan must now, in addition to being approved by producers as under current law, be approved by two-thirds of the milk dealers voting on the referendum. A milk dealer is qualified to vote on such a referendum if the dealer operates a plant which is located within the state and would receive milk priced under the market pool. If the referendum is approved, the a market pool must be established in the area within 60 days, rather than the 120 days under current law.

Quotas & Payments. The director may establish each producer's quota in a market area, instead of establishing initial quotas as under current law. However, the director may also establish a method for proportionally decreasing quotas if the consumption of fluid milk decreases.

Producer-dealers' Exemption. Upon request, the director must adopt rules establishing eligibility for designating persons as being producer-dealers and for cancelling that

designation. The director identifies those who qualify to be producer-dealers. A person so designated is subject to the requirements for milk dealers which the director deems necessary. Such a person must be engaged in the production of milk and must also operate a plant from which an average of more than 300 pounds daily of milk products, except filled milk, is sold within the marketing area. Criteria are established for persons who may be designated as producer-dealers which require that such a person operate only on his or her own behalf.

Dealers and Dealer Licenses. A milk dealer under the act is now a person who operates a milk plant within the state or who operates any other plant which disposes of milk or milk products within a marketing area governed by the act if the products were produced at least in part from milk from this state's producers; rather than a person who operates a plant from which products are disposed of within a such a marketing area. The annual fee for the milk dealer's license required under a pooling plan must be set by the director by rule, rather than being set at \$5 as under current law. The late renewal fee for such a license is one-half of the licensing fee, rather than being set at \$3.

Other. Assessments collected under the act must be deposited in the Agricultural Local Fund. The director may use federal milk marketing audits in lieu of conducting audits under the Milk Pooling Act.

***Fiscal Note:*** Available.

***Effective Date:*** The bill contains an emergency clause and takes effect immediately.

***Testimony For:*** (1) The federal marketing order, which is based on Wisconsin milk production data, gives Northwest dairy farmers the same price for milk that they received in 1978. All costs have gone up substantially since then. Under these conditions, five dairy farms in this state are going out of business each week. The bill will give local dairy farmers some control over pricing. (2) Raw milk must be sold within 48 hours or it becomes waste. Since the commodity is so perishable, dairy farmers are not in a position to influence market conditions or bargain for price. Some form of pricing structure is necessary. The only real choice is whether to use the federal structure which does not fit this area or to use a new Washington - Oregon structure which will reflect local conditions. (3) It takes one to two years to get a hearing to review the federal marketing order and an additional year to get any federal response to the hearing. By the time the plight of the Northwest is reviewed under the federal order, it will

be too late. (4) California has had a state milk pricing system for 53 years. It serves the needs of both producers and manufactures, as demonstrated by the expansion of the dairy industry in that state. California's pricing by classes of uses, as authorized by this bill, permits farmers to receive a fair return while providing a lower and predictable price for cheese manufactures. This is essential for securing bank financing for expansion and currently creates a competitive advantage for California cheese manufacturers over Washington manufacturers. (5) The price given dairy farmers under the federal order has dropped 25 percent, but retail prices for milk products have remained the same.

**Testimony Against:** None.

**Witnesses:** Dan Coyne and Merna Emerik, Washington Dairy Federation (in favor); Andy Vander Muellen, Northwest Independent Milk Producers (in favor); Hernan Etcheto, Olympia Cheese Company (in favor); and Doug Marshall, Darigold (in favor).