

S.89

An act relating to stabilization of prices paid to Vermont dairy farmers

The House proposes to the Senate to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. VERMONT MILK COMMISSION; PRODUCER

PRICE STABILIZATION

(a) The general assembly finds that the recent precipitous drop in producer prices is causing a tremendous burden on Vermont dairy producers and the industry at large, and that this burden must be alleviated as quickly as possible.

(b) The general assembly followed the proceedings of the Vermont milk commission during the summer and fall of 2008 and finds that the commissioner has held the public hearings required by chapter 161 of Title 6.

Sec. 2. 6 V.S.A. § 2924(c) is amended to read:

(c) Public hearings. In order to be informed of the status of the state's dairy industry, the commission shall hold a public hearing: at least annually and whenever the chair deems it necessary.

~~(1) At least annually.~~

~~(2) Whenever the price paid to producers, including the federal market order price and any over-order premiums, on average, has been reduced by five percent or more over the last month or by 10 percent or more over the last three months.~~

~~(3) Whenever the retail price, on average, has increased by more than 10 percent per gallon within a three month period or 15 percent per gallon within a 12 month period.~~

~~(4) Whenever the cost of production increases by 10 percent or more within a period of three to 12 months.~~

~~(5) Whenever a loss or substantial lessening of the supply of fluid dairy products of proper quality in a specified market has occurred or is likely to occur and that the public health is menaced, jeopardized, or likely to be impaired or deteriorated by the loss or substantial lessening of the supply of fluid dairy products of proper quality in a specified market.~~

Sec. 3. ANTI-TRUST INQUIRY; REPORT BY THE ATTORNEY

GENERAL

(a) Findings. The attorney general shall, in cooperation, where possible, with attorneys general from other states, undertake a study of the northeast fluid milk market, and the Vermont segment of that market, and further work with the United States Congress and the United States attorney general to investigate possible anticompetitive practices in the dairy industry.

(b) By January 15, 2010, the attorney general shall report back to the house and senate committees on agriculture with the findings and recommendations of the study required by this section.

Sec. 4. 6 V.S.A. chapter 157 is amended to read:

CHAPTER 157. BONDS

§ 2881. CONDITIONS AND AMOUNT; FAILURE TO FILE

(a) Except as provided in section 2882 of this title, no handler shall purchase milk ~~or cream~~ from Vermont producers or milk cooperatives, and the secretary shall not issue a handler's license, unless the handler furnishes the secretary a good and sufficient surety bond, executed by a surety company duly authorized to transact business in this state in an amount ~~which, at the conclusion of five equal annual increases in bond coverage, is on January 1~~ equal to 50 percent for all species other than cattle, and 100 percent for cattle, of the maximum amount due all milk producers in the state who sell milk to the handler for a 41-day period during the previous 12 months. He or she may accept, in lieu of such bond, a guaranteed irrevocable letter of credit ~~in such sum as he or she deems sufficient~~. The bonds shall be taken for the sole benefit of milk producers ~~of such milk handlers~~ and milk cooperatives in this state. At any time in his or her discretion, the secretary may require such handlers to file detailed statements of the business transacted by them in this state, and at any time may require them to give such additional bonds as he or she deems necessary. If the handler refuses or neglects to file the detailed statements or to give bonds required by the secretary, the secretary may suspend the license of the handler until he or she complies with the secretary's

orders. The secretary ~~shall~~ shall report to the attorney general the name of any handler doing business in this state without a license or after suspension of its license by the secretary and the attorney general shall forthwith bring injunction proceedings against the handler. Renewals of bonds specified in this section shall be furnished the secretary 60 days before the effective date of the bond. If the handler fails to file the bonds as required, the secretary shall forthwith publish the name of the handler in four newspapers of general circulation in the state for a period of three consecutive days and notify, by registered mail, producers supplying such handler.

(b) ~~A handler shall be exempt from providing the financial security required by this section for payments the handler makes to a producer who is a member of a milk cooperative which guarantees its members' milk checks. To receive this exemption, a handler shall notify the secretary of each such producer and the secretary shall validate the cooperative membership of the producer.~~

§ 2882. EXEMPTIONS FROM FILING BOND

(a) ~~A handler who purchases or receives milk or cream from producers~~ milk cooperative or a nonprofit cooperative association organized under Vermont law or similar laws in other states shall not be required to furnish surety as provided in section 2881 of this title ~~if the handler is a nonprofit cooperative association organized under Vermont statutes or under similar~~

laws in other states for payments made to a milk cooperative or to a producer who is a member of a milk cooperative.

(b) A handler who does not purchase milk ~~or cream~~ from Vermont producers or milk cooperatives shall not be required to furnish surety as provided under section 2881 of this title.

(c) A handler who pays a milk cooperative for milk in advance or at the time of delivery shall not be required to furnish surety as provided under section 2881 of this title. Every milk cooperative selling milk to handlers who pay for milk in advance or at the time of delivery shall, on January 1 and July 1 of each year, notify the secretary in writing of the identity of each handler and shall promptly notify the secretary, in writing, of any changes to the most recent notification.

(d) A handler who purchases fewer than 150,000 pounds of milk per month from a milk cooperative shall not be required to furnish surety as provided under section 2881 of this title.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.