

No. 148. An act relating to stop and hauling charges.

(S.264)

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. PURPOSE

(a) Sec. 4 of No. 50 of the Acts of 2007 directed that the “Vermont milk commission shall establish by rule . . . a minimum producer price that is designed to achieve a price by which the cost of picking up the milk and hauling the milk from the farm to the purchaser will be paid by the purchaser.”

(b) Under Sec. 6(c) of Act 50 (2007), the milk commission was directed to “commence the rulemaking process necessary to implement the provisions of Sec. 4 . . . within 60 days of the effective date of the act,” which became effective on May 26, 2007. Also under Sec. 6(c), the rule itself “shall take effect when, by rule, legislation, or other agreement, New York and one other state in the Northeast Marketing Area, Federal Order 1, have accomplished the purpose of this act or on January 15, 2009, whichever comes first.”

(c) Sec. 4 of Act 50 (2007) was amended the following year by Sec. 1. of No. 157 of the Acts of the 2007 Adj. Sess. (2008), which split Sec. 4 into two subsections. Subsection (a) directed the Vermont milk commission to establish “by order . . . a minimum producer price that is designed to reflect the cost of production.” Subsection (b) mandated that “The cost of picking up the milk and hauling the milk from the farm to the purchaser will be paid by the

purchaser.” Sec. 6(c) of Act 50 (2007) was also amended to change the date certain for the effective date of the milk commission’s order from January 15, 2009 to July 1, 2010.

(d) Despite the mandate to the Vermont milk commission to adopt an order governing the minimum producer price and stop and hauling charges, no order was ever adopted. Furthermore, legal opinions differ as to the force and effect of the amendments made by Act 157 (2007 Adj. Sess.), and consequently, it remains uncertain whether and when the buyer of cows’ milk, rather than the dairy producer, is responsible for paying dairy hauling costs.

(e) The purpose of this act is to express the general assembly’s intent that dairy hauling costs should be paid by the buyer of the cows’ milk, rather than the dairy farmer.

Sec. 2. 6 V.S.A. § 2676 is amended to read:

§ 2676. TITLE TO MILK IN TANK TRUCK; COST OF HAULING

(a) When milk is sampled, measured, and transferred from a farm tank to a tank truck, the milk collector shall be deemed to be the agent of the buyer and title to the milk shall be deemed to pass to the buyer at the time of such transfer.

(b)(1) In this section, “hauling costs” means stop charges, hauling charges, fuel surcharges, and any other costs incurred to transport cows’ milk from a farm to the buyer.

(2) Notwithstanding subsection 2925(d) of this title, hauling costs shall be paid by the buyer and shall not be charged back to the selling producer, either directly or indirectly. No additional charges shall be made, and no costs may be shifted from other benefits the producer receives to contravene the purpose of this subsection. No funds shall be transferred away from the producer in paid producer differentials or premiums the producer would receive but for this subsection.

Sec. 3. REGIONAL COLLABORATION ON TRANSITION OF PAYMENT
OF HAULING COSTS

(a) The secretary of the agency of agriculture, food and markets shall collaborate with his or her counterparts in states within the Northeast Marketing Area to advocate for a transition within each state, and within the Area, to a legally enforceable framework under which the purchaser pays stop and hauling charges.

(b) The secretary shall provide information and support as is practicable to aid other states in effecting this transition through legislative or administrative enactments at the state level to ensure the contemporaneous adoption of a statewide, mandatory framework, under which a purchaser of cows' milk shall be responsible for the payment of dairy hauling costs.

(c) The secretary shall further collaborate with other northeast states to implement a shift in responsibility for payment of dairy hauling costs through a milk marketing order petition or other means available at the federal level.

(d) Beginning in 2011, on or before January 15 of each year, the secretary shall submit a report to the house and senate committees on agriculture detailing progress made on accomplishing the transition at the state level within each state in the Northeast Marketing Area, and on progress made on a petition or other means to implement a cost shift in stop and hauling charges at the federal level.

Sec. 4. REPEAL

Sec. 1(b) of No. 157 of the Acts of the 2007 Adj. Sess. (2008) is repealed.

Sec. 5. EFFECTIVE DATE

This bill shall take effect upon passage, except that Sec. 2. (amendment to 6 V.S.A. § 2676, mandating that cost of hauling to be paid by buyer) shall take effect when New York requires, by legislative or administrative enactment of statewide applicability and enforcement, that dairy hauling costs be paid by the purchaser of cows' milk rather than the producer of the milk.

Approved: June 1, 2010