

1 SENATE BILL NO. 131

2 INTRODUCED BY D. SALOMON

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR MILK PRICE FORWARD CONTRACTS;
5 CLARIFYING THAT MILK PRICE FORWARD CONTRACTS DO NOT VIOLATE FAIR TRADE PRACTICES;
6 PROVIDING A DEFINITION; AND AMENDING SECTIONS 81-23-101 AND 81-23-303, MCA."

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8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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10 **Section 1.** Section 81-23-101, MCA, is amended to read:

11 **"81-23-101. Definitions.** (1) Unless the context requires otherwise, in this chapter, the following
12 definitions apply:

13 (a) "Board" means the board of milk control provided for in 2-15-3105.

14 (b) (i) "Class" refers to the classes of utilization of milk that the board defines by rule.

15 (ii) In adopting rules under this subsection (1)(b), the board shall use the current definitions of classes
16 of utilization of milk that are found in 7 CFR, part 1000.40, except that the board may combine any of the
17 classes of milk provided for in the federal definitions into a single class.

18 (c) "Consumer" means a person or an agency, other than a dealer, who purchases milk for
19 consumption or use.

20 (d) "Dealer" means a producer, distributor, producer-distributor, jobber, or independent contractor.

21 (e) (i) "Distributor" means a person purchasing milk from any source, either in bulk or in packages,
22 and distributing it for consumption in this state. The term includes what are commonly known as jobbers and
23 independent contractors.

24 (ii) The term does not include a person purchasing milk from a dealer licensed under this chapter for
25 resale over the counter at retail or for consumption on the premises.

26 (f) "Licensee" means a person who holds a license from the board.

27 (g) "Market" means an area of the state designated by the board as a natural marketing area.

28 (h) "Milk" means the lacteal secretion of a dairy animal or animals, including those secretions when

1 raw and when cooled, pasteurized, standardized, homogenized, recombined, concentrated fresh, or otherwise
 2 processed and all of which are designated as grade A by a constituted health authority and including those
 3 secretions that are in any manner rendered sterile or aseptic, notwithstanding whether they are regulated by
 4 any health authority of this or any other state or nation.

5 (i) "Milk price forward contract" means a voluntary agreement between a distributor and a producer to
 6 establish a mechanism to adjust a future producer price on a future delivery of milk at a future date, as a means
 7 of hedging the future milk price received by the producer.

8 ~~(j)~~(j) "Person" means an individual, firm, corporation, or cooperative association or the dairy operated
 9 by the department of corrections at the Montana state prison.

10 ~~(k)~~(k) "Producer" means a person who produces milk for consumption in this state and sells it to a
 11 distributor.

12 ~~(l)~~(l) "Producer prices" means those prices at which milk owned by a producer is sold in bulk to a
 13 distributor.

14 ~~(m)~~(m) "Producer-distributor" means a person both producing and distributing milk for consumption in
 15 this state.

16 ~~(n)~~(n) "Retailer" means a person selling milk in bulk or in packages over the counter at retail or for
 17 consumption on the premises and includes but is not limited to retail stores of all types, restaurants,
 18 boardinghouses, fraternities, sororities, confectioneries, public and private schools, including colleges and
 19 universities, and both public and private institutions and instrumentalities of all types and description.

20 (2) The board may assign new milk products not provided for under 7 CFR, part 1000.40, to the class
 21 that the board considers proper."

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23 **Section 2.** Section 81-23-303, MCA, is amended to read:

24 **"81-23-303. Rules of fair trade practices.** (1) The board may adopt reasonable rules governing fair
 25 trade practices as they pertain to the transaction of business among licensees under this chapter and among
 26 licensees and the general public. Except for provisions regarding the requirement for first call on Montana milk
 27 supplies, as provided in 81-23-302(10), ~~and~~ rules adopted pursuant to 81-23-302(11), and as provided in
 28 subsection (2), fair trade practice rules must contain but are not limited to provisions prohibiting the following

1 methods of doing business that are unfair, unlawful, and not in the public interest:

2 ~~(1)(a)~~ the payment, allowance, or acceptance of secret rebates, secret refunds, or unearned
3 discounts by a person, whether in the form of money or otherwise;

4 ~~(2)(b)~~ the giving of milk, cream, dairy products, services, or articles of any kind, except to bona fide
5 charities, for the purpose of securing or retaining the fluid milk or fluid cream business of a customer;

6 ~~(3)(c)~~ the extension to certain customers of special prices or services not available to all customers
7 who purchase milk of like quantity under like terms and conditions; and

8 ~~(4)(d)~~ the payment of a price lower than the applicable producer price, established by the board, by a
9 distributor to a producer for milk that is distributed to any person, including agencies of the federal, state, or
10 local government.

11 (2) A payment subject to a milk price forward contract that is less than the minimum producer price is
12 not a violation of this section."

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