

S.89

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

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

Sec. 1. VERMONT MILK COMMISSION; MILK PREMIUM; 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 by regulatory action. Accordingly, the general assembly directs the Vermont milk commission to conduct without delay the proceedings necessary to determine whether a “retail fluid milk premium,” including its distribution to producers, should be enacted in accordance with 6 V.S.A. § 2924(e) and the regulations adopted under chapter 161 of Title 6.

(b) To facilitate these expedited proceedings, not later than five days after the enactment of this act, the chair of the commission shall direct the issuance of a further notice of hearing on the latest version of the commission’s “proposed order to establish a retail fluid milk premium” first issued on September 9, 2008. The commission is further directed to conduct this hearing as quickly as procedurally allowable, and to so proceed as expeditiously as

possible with all subsequent regulatory actions required by law for its
determination of whether to establish a retail fluid milk premium.

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

§ 2924. POWERS AND DUTIES; PRICING AUTHORITY; PUBLIC
HEARINGS

(a) Authority over milk prices. The commission may establish an equitable minimum or maximum price, or both, and the manner of payments, which shall be paid producers or associations of producers by handlers, and the prices charged consumers and others for milk used in dairy products by distributors or handlers. The cost of the contracts and employment pursuant to section 2923 of this title and of administering the collection and distribution of monies collected under this section shall not exceed \$100,000.00 annually, and shall be collected independently from any assessment imposed under this section. The commission may impose a one-time assessment to cover the initial costs of establishing a pricing order as authorized by this section.

(b) Equitable minimum producer prices. The commission may establish by order after notice and hearing an equitable minimum price to be paid to dairy producers for milk produced in Vermont on the basis of the use thereof in the various classes, grades, and forms. Prices so established which exceed federal order prices shall be collected by the commission from the handlers for distribution to dairy producers as a blend price. ~~The cost of the contracts and~~

~~employment pursuant to section 2923 of this title and of administering the collection and distribution of these moneys shall be covered by such moneys, not to exceed \$100,000.00.~~

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Sec. 3. PREMIUM START-UP FUNDING

(a) The commission shall impose a one-time assessment to cover the administrative costs of its regulatory activities required by Sec. 1 of this act. The assessment required by this section shall not exceed \$35,000.00.

(b) The agency of agriculture, food and markets may borrow from its own general fund to cover these administrative expenses and the milk commission shall reimburse the agency of agriculture, food and markets' general fund upon receipt of the proceeds of the assessment authorized by subsection (a) of this section.

Sec. 4. PRODUCER REFERENDUM

(a) If adopted pursuant to this act, a final order by the Vermont milk commission to establish a retail fluid milk premium shall be submitted by Vermont dairy producers to a producer referendum in accordance with part II, section 7 of the "Vermont Milk Commission Procedure, Development and Issuance of an Order to Establish a Retail Fluid Milk Premium, Or Amendment of Such Order." Notwithstanding the provisions of part III, section 8 of this commission procedure, however, the referendum shall not be conducted as a

“qualified cooperative representative vote,” but shall instead provide for individual ballot and vote by each Vermont producer.

(b) The referendum shall be carried out and certified not more than 30 days after the adoption of a final order.

(c) The commission shall file with the secretary of state and the legislative committee on administrative rules a letter explaining that a qualified cooperative representative vote pursuant to part III, section 8 of the “Vermont Milk Commission Procedure, Development and Issuance of an Order to Establish a Retail Fluid Milk Premium, Or Amendment of Such Order” will not apply to an order adopted under this act. The commission shall also submit a copy of this act to the secretary of state and the legislative committee on administrative rules.

Sec. 5. ANTI-TRUST INQUIRY; REPORT BY THE ATTORNEY

GENERAL

(a) Findings. The general assembly is concerned that the highly concentrated market structure of the New England dairy industry, throughout all sectors, is operating to the disservice of Vermont dairy farmers and milk consumers alike. The raw milk sector of the industry is increasingly dominated by one large, nationally based dairy farm cooperative, and Vermont dairy farmers now have very few options for the initial marketing of their milk. The downstream processing sector is dominated by just two fluid milk

processing concerns, which control both the procurement of raw milk from dairy farms and the sale of packaged milk to retail outlets. Finally, the dominant supermarket segment of the Vermont retail market is controlled by a few large firms, many of whom are nationally based or multinational companies.

(b) Therefore, the attorney general shall 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 of dairy cooperatives, processors, and retail firms operating in the Vermont marketplace.

(c) As part of the study, the attorney general shall determine whether operation of the Capper-Volstead Act of 1922 continues to serve its intended purpose and function in the public interest.

(d) 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. 6. EFFECTIVE DATE

This act shall take effect upon passage.