

SENATE NO. 482

AN ACT ESTABLISHING MAXIMUM RETAIL MILK PRICES

*Be it enacted by the Senate and House of Representatives in General Court assembled,
And by the authority of the same, as follows:*

1 SECTION 1. Definitions. For the purposes of this section, the following terms shall have the
2 following meanings:

3 (a) "Person" shall mean the owner or owners, including any individual , partnership,
4 association, firm, or corporation, of an establishment engaged in the retail sale of milk;

5 (b) "Commissioner" shall mean the commissioner of the department of agriculture and
6 resources;

7 (c) "Fluid milk" shall mean milk, skim milk, or lowfat milk in consumer sized packages
8 sold or offered for sale for off premise consumption;

9 (d) "Average net raw milk price" shall mean the average net price paid to producers of
10 milk in the state, including premiums and discounts; and

11 (e) "Maximum retail milk price" shall mean a price for milk charged to consumers
12 which exceeds two hundred percent of the average net raw milk price or another maximum
13 price established by the commissioner;

14 (f) "Retail milk dealer" shall mean any milk dealer selling milk directly to ultimate
15 consumers.

16 2. Prohibitions: No person shall sell or offer for sale fluid milk for an amount which exceeds
17 the maximum retail milk price.

18 3. Price information:

19 (a) The commissioner shall maintain and publish information regarding

20 (i) the average net raw milk price; and

21 (ii) the maximum retail milk price.

22 (b) When calculating these prices the commissioner shall consider prices established

23 under federal law and regulations: premiums and discounts: quality and grade of milk: input

24 costs: specialty milk products: and any other factor deemed relevant by the commissioner. The

25 commissioner shall propound regulations necessary to carry out this duty.

26 (c) The commissioner may after making an examination and investigation and after

27 hearing held after due notice change or alter the maximum retail milk price established by this

28 chapter or by the commissioner. Prices may vary in different localities or markets according to

29 the varying conditions and times. The commissioner may classify such milk by such forms,

30 classes, grades, or uses as the commissioner may deem advisable.

31 5. It shall be the responsibility of the commissioner to examine whether the price of fluid milk

32 sold by any person exceeds the maximum retail milk price. Upon a determination by the

33 commissioner that the price of fluid milk being sold or offered for sale exceeds the maximum

34 retail milk price the commissioner shall, by written notice, provide any person found to be

35 selling or offering for sale fluid milk at such price an opportunity to discontinue such price

36 levels or to demonstrate that it is not violating this section. Any person so notified who does not

37 submit a written reply within three business days of the receipt of such notice and who does not

38 within such time satisfy the commissioner that the price level which resulted in the issuance of

39 the notice is justifiable or has been terminated shall be identified in the commissioner's

40 determination as a person apparently in violation of subdivision three of this section. Following

41 such notice to and opportunity for such person to respond the commissioner shall issue an order
42 to such person to cease and desist the violation and take such affirmative action as in his
43 judgment will effect the purposes of this chapter.

44 6. Civil Penalties: Persons refusing to comply with any order under this section shall be fined:

45 (a) one thousand dollars per violation, where the aggregate amount of fluid milk sold is
46 one thousand gallons or less per week; or

47 (b) five thousand dollars per violation, where the aggregate amount of fluid milk sold
48 exceeds one thousand gallons per week; and

49 (c) in addition to paragraphs (a) and (b) of this subdivision where appropriate order
50 restitution to aggrieved consumers.

51 7. Hearings: Any person aggrieved by any order issued by the commissioner may request a
52 hearing pursuant to procedures established by the commissioner. Any person aggrieved by the
53 final decision of the commissioner after a hearing may seek relief in district court.

54 8. The commissioner shall promulgate all rules and regulations to effectuate the purposes of
55 this section.