

# SENATE NO. 483

## **AN ACT** ESTABLISHING RETAIL MILK DEALER FEES

*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. An Act Establishing Retail Milk Dealer Fees

2 [Not yet in bill form]

3 [New Section within Chapter 94A]

4 (1) Fee: Upon notification by the Commissioner [of the Department of Natural Resources], the  
5 Department of Revenue shall levy and impose a retail milk dealer fee at the rate established in  
6 subsection 3 on the handling of milk sold at retail to final consumers for consumption off the  
7 handler's premises in the Commonwealth. The fee shall be paid by the retail milk dealer  
8 making such sale to the final consumer. Milk packaged for sale in containers of less than one  
9 quart or 20 or more quarts in volume, or packaged milk that is sold to an institution that is  
10 owned and operated by any town or municipality, the Commonwealth, or the Federal  
11 government shall be exempt from the retail milk dealer fee.

12 (2) Open Space Preservation Fund: The Department of Revenue shall deposit fees collected  
13 pursuant to this section into the Open Space Preservation Fund maintained by the  
14 Commissioner.

15 (3) Rate of Fee: The rate of the fee levied under this section shall be established for each fee  
16 period on the basis of the average net raw milk price established by the Bureau in accordance  
17 with the following:

- 18 a. If the average net raw milk price is \$18.50 per hundredweight and above, the  
19 retail milk dealer fee is 0¢ per retail gallon;
- 20 b. If the average net raw milk price if \$18.00 to \$18.49 per hundredweight, the  
21 retail milk dealer fee in 1¢ per retail gallon;
- 22 c. If the average net raw milk price is \$17.50 to \$17.99 per hundredweight, the  
23 retail milk dealer fee is 2¢ per retail gallon;
- 24 d. If the average net raw milk price is \$17.00 to \$17.49 per hundredweight, the  
25 retail milk dealer fee is 4¢ per retail gallon;
- 26 e. If the average net raw milk price is \$16.50 to \$16.99 per hundredweight, the  
27 retail milk dealer fee is 8¢ per retail gallon;
- 28 f. If the average net raw milk price is \$16.00 to \$16.49 per hundredweight, the  
29 retail milk dealer fee is 10¢ per retail gallon;
- 30 g. If the average net raw milk price is below \$16.00, the retail milk dealer fee is  
31 12¢ per retail gallon;

32 For any container other than a gallon, the fee is computed on a gallon-equivalent basis.  
33 The commissioner may change or alter the fee rates set forth above after a hearing conducted  
34 pursuant to section 16 of this Chapter.

35 (4) Fee payment schedule: Retail milk dealers shall pay the fee on a calendar month basis  
36 within 30 days after the end of the each calendar month. Retail milk dealers shall maintain  
37 records of all transactions subject to this section for a period of three years. The Department of  
38 Revenue shall implement procedures and regulations as necessary to carry out the purposes of  
39 this Act.

40 (5) Licensing: Notwithstanding any other provision of this Chapter, including section 4 (b) of  
41 this Chapter, every retail milk dealer shall register as a milk dealer within 30 days of becoming  
42 subject to the retail milk dealer fee.

43 (6) Prohibited activities: Any retail dealer which passes the cost of the retail milk dealer fee on  
44 to consumers in the form of higher milk prices will be subject to license revocation or refusal of  
45 license renewal pursuant to section 6 of this Chapter.

46 (7) Severability: If any section, part, clause or phrase in this Act, is for any reason held to be  
47 invalid or unconstitutional sections, parts, clauses and phrases in said act not held to be invalid  
48 or unconstitutional shall not be affected and shall remain in full force and effect.