



General Assembly

January Session, 2007

**Raised Bill No. 1356**

LCO No. 4982

\*04982\_\_\_\_\_ENV\*

Referred to Committee on Environment

Introduced by:  
(ENV)

**AN ACT CONCERNING THE ESTABLISHMENT OF A CONNECTICUT MILK COMMISSION.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2007*) As used in this section and  
2 sections 2 to 10, inclusive, of this act:

3 (1) "Books and records" means any book, ledger, record, account,  
4 memoranda or other data pertaining to the purchase and distribution  
5 of milk;

6 (2) "Milk commission" means the Connecticut Milk Commission;

7 (3) "Consumer" means any person other than a milk dealer who  
8 purchases fluid milk for consumption;

9 (4) "Dealer" means any person who purchases or receives milk for  
10 sale as the consignee or agent of a producer, or handles milk for sale,  
11 shipment, storage or processing within this state and shall include a  
12 producer-dealer and a sub-dealer, but shall not include a store other  
13 than an integrated operation;

- 14 (5) "Department" means the Department of Agriculture;
- 15 (6) "Integrated operation" means a person who is a dealer and who  
16 also sells at retail the milk of their own production;
- 17 (7) "Market" means any city, town or parts thereof of this state;
- 18 (8) "Milk" has the same meaning as used in 7 CFR 1000.15 and 7 CFR  
19 1000.16, including, but not limited to, whole milk, skim milk, low fat  
20 milk, reduced fat milk, half and half, flavored milk and cultured milks;
- 21 (9) "Person" means any individual, partnership, firm, corporation,  
22 association or other unit created to conduct business in this state,  
23 except state and municipally owned and operated institutions;
- 24 (10) "Producer" means any person who produces milk and sells such  
25 milk only to dealers;
- 26 (11) "Producer-dealer" means a dealer who processes and sells milk  
27 of their own production;
- 28 (12) "Retail sale" includes home delivery and over-the-counter sales  
29 by stores;
- 30 (13) "Store" means a grocery store, dairy product store, canteen, milk  
31 vending machine operator, milk dispensing operator or any similar  
32 commercial establishment or outlet or any other entity that sells milk  
33 directly to consumers;
- 34 (14) "Sub-dealer" means any person who does not process milk and  
35 who purchases milk from a dealer and sells such milk in the same  
36 containers in which it was purchased, but shall not include a store;
- 37 (15) "Wholesale sale" means the sale of milk to any other dealer;
- 38 (16) "Retail store" means a grocery store, dairy product store or any  
39 similar commercial establishment where milk is sold to consumers for  
40 consumption off the premises;

41 (17) "Annual production" means the total quantity of milk,  
42 expressed in hundredweight, produced in a twelve-month period  
43 beginning June first and ending May thirty-first of the next calendar  
44 year;

45 (18) "Base price" means the statistically uniform price announced by  
46 the administrator of the Northeast Marketing Area Milk Marketing  
47 Order. The base price includes payments from other states and the  
48 federal government for milk produced by milk producers in this state;  
49 and

50 (19) "Target price" means the milk price established by the milk  
51 commission pursuant to section 4 of this act.

52 Sec. 2. (NEW) (*Effective July 1, 2007*) (a) There is established a  
53 Connecticut Milk Commission, which shall include the Commissioner  
54 of Agriculture or the commissioner's designee. Said commissioner, or  
55 commissioner's designee, shall serve as an ex-officio member with no  
56 right to vote, except to break a tie vote.

57 (b) The Governor, in accordance with section 4-9a of the general  
58 statutes and with the advice and consent of either house of the General  
59 Assembly, shall appoint four electors of the state to the Connecticut  
60 Milk Commission, none of whom have an active or financial interest in  
61 the production, processing, sale or distribution of milk. The first such  
62 elector shall serve a term of one year, commencing the date of his or  
63 her appointment. The second such elector shall serve a term of two  
64 years, commencing the date of his or her appointment. The third such  
65 elector shall serve a term of three years, commencing the date of his or  
66 her appointment. The remaining such elector shall serve a term of four  
67 years, commencing the date of his or her appointment, and shall serve  
68 until their successors are duly appointed and qualified. A vacancy in  
69 the membership of the milk commission shall be filled by appointment  
70 by the Governor. The Governor, for cause and after a public hearing,  
71 may remove any appointed member of the milk commission.

72 (c) A member of the milk commission shall not, at the time of  
73 appointment or while serving as a member of the milk commission,  
74 have a business or professional relationship or connection with or a  
75 financial interest in any producer, dealer, store or other person whose  
76 activities are subject to the jurisdiction of the milk commission. An  
77 employee of the milk commission shall not have a business or  
78 professional relationship or connection with or a financial interest in  
79 any producer, dealer, store or other person whose activities are subject  
80 to the jurisdiction of the milk commission. A member or employee of  
81 the milk commission shall not render, or be a member of a firm that  
82 renders, any professional or other service for or against a producer,  
83 dealer, store or other person whose activities are subject to the  
84 jurisdiction of the milk commission.

85 (d) The members of the milk commission shall elect a chairperson.  
86 The milk commission may enter into a memorandum of understanding  
87 with any state agency or state institution to provide assistance or staff  
88 to enforce, implement and carry out the provisions of this section. The  
89 milk commission shall make use of professional, expert or other  
90 resources available within the various departments and entities of state  
91 government, including, but not limited to, the Department of  
92 Agriculture, the office of the Attorney General and The University of  
93 Connecticut. Such departments shall, within existing resources,  
94 provide necessary and appropriate services at the request of said  
95 commission. To the extent these services are not available or otherwise  
96 inadequate, the milk commission may, within existing resources,  
97 employ appropriate experts, professionals or others necessary to assist  
98 it in carrying out its duties.

99 (e) The milk commission shall be under the jurisdiction of the  
100 Department of Agriculture for administrative purposes. The milk  
101 commission shall, within existing resources, be furnished with all  
102 necessary equipment and supplies and with a suitable office within  
103 said department. Each member of the milk commission appointed  
104 pursuant to subsection (b) of this section shall receive one hundred

105 dollars for each milk commission meeting such member attends.

106 (f) There is established a milk regulation account, which shall be a  
107 separate, nonlapsing account within the General Fund. All monetary  
108 penalties collected for violations of chapter 430 and chapter 431 of the  
109 general statutes and of sections 1 to 10, inclusive, of this act, and all  
110 license, permit or registration fees collected pursuant to said chapters  
111 and said sections shall be deposited into said account. All costs  
112 incurred by the milk commission in the discharge of its duties  
113 pursuant to sections 1 to 10, inclusive, of this act shall be paid from  
114 said account.

115 Sec. 3. (NEW) (*Effective July 1, 2007*) (a) The milk commission shall  
116 meet at least once during the month of October and shall keep a  
117 written record of all its proceedings.

118 (b) At least once every three years, the commission shall conduct an  
119 independent study of the economics and practices of the milk industry  
120 in order to assist itself in establishing minimum milk prices. Any such  
121 study shall include, but not be limited to, the compilation of cost and  
122 profit data of dairy farms, milk processors, milk distributors and milk  
123 retailers.

124 (c) The chairperson of the milk commission may call a special  
125 meeting of the milk commission when he or she determines such  
126 meeting is necessary or when such a meeting has been requested, in  
127 writing, by two or more members of the milk commission.

128 Sec. 4. (NEW) (*Effective July 1, 2007*) (a) The milk commission may,  
129 in consultation with the Commissioner of Agriculture and after a  
130 hearing held pursuant to the provisions of chapter 54 of the general  
131 statutes: (1) Establish minimum prices for milk sold in the state; (2)  
132 establish separate minimum price categories to reflect different  
133 container costs; (3) establish separate minimum price categories for  
134 different quantities of packaged milk and milk sold in separate  
135 containers; (4) establish separate minimum price categories to reflect

136 identifiable distribution costs; (5) establish a system of premiums or  
137 payments to milk producers for the production of particular types or  
138 quality of milk, or for the production of milk which milk dealers  
139 market as a specialty or value-added product which differs from  
140 common milk offered for sale in the state, or to offset unusual market  
141 or economic conditions which negatively affect milk producer  
142 profitability; and (6) establish and change the minimum wholesale and  
143 retail prices of milk sold or offered for sale in the state.

144 (b) The milk commission shall not have any powers or duties  
145 regarding milk quality or the sanitary regulation of any business.

146 Sec. 5. (NEW) (*Effective July 1, 2007*) (a) The milk commission may,  
147 in consultation with the Commissioner of Agriculture and after a  
148 hearing held pursuant to the provisions of chapter 54 of the general  
149 statutes, establish or change producer target milk prices. When  
150 establishing such target milk prices, the milk commission shall study  
151 and consider the various costs of producing milk in the state and the  
152 effect of the target price on consumers. A target milk price of seventeen  
153 dollars per one hundred pounds of milk produced shall be in effect  
154 until changed by the milk commission.

155 (b) For each month that the base price is below the target price, the  
156 milk commission shall distribute to each milk producer in this state an  
157 amount of money equal to such milk producer's previous month's  
158 production in hundredweight, multiplied by the difference between  
159 the applicable target price and the base price in the previous month.

160 (c) When the milk commission makes a finding and establishes or  
161 changes target milk prices, premiums or payments to producers, the  
162 milk commission may establish or change the minimum prices charged  
163 by milk dealers to other milk dealers, milk processors, milk sub-  
164 dealers, restaurants, institutions, food service operators and retail  
165 stores and the minimum prices to be charged to consumers for milk,  
166 under varying conditions, as will best ensure a sufficient quantity of  
167 fresh fluid milk to the inhabitants of this state.

168       Sec. 6. (NEW) (*Effective July 1, 2007*) Every producer, cooperative,  
169 milk handler, milk dealer, milk distributor and milk retailer shall keep  
170 and provide to the milk commission, at such times and in a manner  
171 and form as may be prescribed by the milk commission, accounts of all  
172 business transacted in the state that is related to the production,  
173 purchasing, processing, sale or distribution of milk. Such accounts  
174 shall reasonably reflect, in such detail as the milk commission  
175 prescribes, income, expense, assets, liabilities and such other  
176 accounting entries as the milk commission considers necessary, to  
177 assist the milk commission in making its determinations.

178       Sec. 7. (NEW) (*Effective July 1, 2007*) The milk commission shall have  
179 power to enter into agreements with legally constituted milk  
180 commissions or similar authorities of other states or of the United  
181 States, to effect uniformity in regulating and insuring an adequate  
182 supply of pure and wholesome milk to the inhabitants of the state and  
183 to provide consistency and coordination in control of milk produced in  
184 the state and handled in interstate and intrastate commerce.

185       Sec. 8. (NEW) (*Effective July 1, 2007*) (a) When the milk commission  
186 believes that a violation of sections 1 to 10, inclusive, of this act or of  
187 any regulation, order or decision adopted or made pursuant to  
188 sections 1 to 9, inclusive, of this act has occurred, the milk commission  
189 may, by majority vote, order any person to cease such violation. When  
190 issuing an order, said milk commission shall notify any person who  
191 would be aggrieved by the order of his or her right to a hearing  
192 pursuant to chapter 54 of the general statutes. If a person is aggrieved  
193 by an order of the milk commission, such aggrieved party may request  
194 a hearing pursuant to the provisions of said chapter 54. After such  
195 hearing, said milk commission shall publish its findings and issue a  
196 final order not later than thirty days after such hearing. Any person  
197 aggrieved by a final order issued pursuant to this section may appeal  
198 such final order to the Superior Court. In responding to such an  
199 appeal, said milk commission may seek enforcement of its order and  
200 civil penalties for any violation found by the court, and the court, if it

201 upholds the order, may order such enforcement and civil penalties.

202 (b) In administering sections 1 to 10, inclusive, of this act, the milk  
203 commission may: (1) Subpoena and examine under oath persons  
204 whose activities are subject to the jurisdiction of the milk commission,  
205 including producers, dealers and stores and their officers, agents and  
206 representatives; and (2) subpoena and examine the business records,  
207 books and accounts of persons whose activities are subject to the  
208 jurisdiction of the milk commission, including producers, dealers and  
209 stores and their officers, agents and representatives.

210 (c) Any member of the milk commission and any agent designated  
211 by the milk commission may sign subpoenas and administer oaths to  
212 witnesses.

213 (d) The milk commission shall ensure that milk dealers and milk  
214 distributors give thirty days notice to customers prior to terminating  
215 delivery to such customers in their delivery area or in the delivery area  
216 of a milk dealer or milk distributor in which they purchase milk. Such  
217 notice shall not apply to cancellation of milk delivery resulting from a  
218 failure to pay bills.

219 Sec. 9. (NEW) (*Effective July 1, 2007*) No provision of this act shall  
220 prevent a producer cooperative association or producer cooperative  
221 corporation authorized to transact business in this state which sells the  
222 milk of or for its members or of persons under contract with such  
223 producer cooperative association or producer cooperative corporation  
224 from blending the proceeds of their net sales either in or out of this  
225 state and so paying its members.

226 Sec. 10. (NEW) (*Effective July 1, 2007*) The Commissioner of  
227 Agriculture shall adopt regulations, in accordance with chapter 54 of  
228 the general statutes, to carry out the purposes of sections 1 to 10,  
229 inclusive, of this act. Such regulations shall establish uniform  
230 procedures to enable the milk commission and agents authorized by  
231 the milk commission to inspect the records, books and accounts of

232 milk dealers, milk distributors, milk handlers and milk retailers in a  
233 location and in a manner acceptable to the milk commission.

234 Sec. 11. Section 22-203cc of the general statutes is repealed and the  
235 following is substituted in lieu thereof (*Effective July 1, 2007*):

236 Upon the establishment of the Northeast Interstate Dairy Compact  
237 Commission as provided for in section 22-203aa, the Governor shall  
238 appoint two of the state's delegation to said commission from among  
239 the members of the [Milk Regulation Board established under section  
240 22-131] Connecticut Milk Commission established pursuant to section  
241 2 of this act. The [delegation shall include one member] Governor shall  
242 appoint one additional member to the Northeast Interstate Dairy  
243 Compact Milk Commission who represents the interests of [milk  
244 consumers, one member who is a processor of milk and two members  
245 who are] dairy farmers. [In addition to the members of the delegation  
246 from the Milk Regulation Board, the Governor shall appoint one  
247 retailer of milk to the delegation.]

248 Sec. 12. Section 22-231 of the general statutes is repealed and the  
249 following is substituted in lieu thereof (*Effective July 1, 2007*):

250 The Commissioner of Agriculture may refuse to grant or renew a  
251 license, or may suspend, revoke or refuse to transfer a license already  
252 granted, after the commissioner has determined that the applicant or  
253 dealer: (1) Has failed to comply, or has been a responsible member or  
254 officer of a partnership or corporation which failed to comply, with  
255 any provision of this part or any order, ruling, regulation or direction  
256 issued hereunder; (2) has insufficient financial responsibility,  
257 personnel or equipment to properly to conduct the milk business; (3) is  
258 a person, partnership, corporation or other business entity, in which  
259 any individual holding a material position, interest or power of control  
260 has previously been responsible in whole or in part for any act on  
261 account of which a license was or may be denied, suspended or  
262 revoked under the provisions of this part; (4) has failed to file a bond  
263 required by the commissioner under the provisions of this part; (5) if

264 located out of the state, has failed to obtain a satisfactory milk  
 265 sanitation compliance rating from a certified state milk sanitation  
 266 rating officer; (6) is not in compliance with all laws and regulations of  
 267 the state pertaining to health and sanitation in the production,  
 268 processing, handling or sale of milk; (7) has rejected, without  
 269 reasonable cause, any milk purchased from a producer, or has refused  
 270 to accept, without either reasonable cause or reasonable advance  
 271 notice, milk delivered by or on behalf of a producer in ordinary  
 272 continuance of a previous course of dealing, except when the contract  
 273 has been lawfully terminated; provided, in the absence of an express or  
 274 implied fixing of a period in the contract, "reasonable advance notice"  
 275 shall be construed to mean not less than one week or more than two  
 276 weeks; (8) has continued in a course of dealing of such nature as to  
 277 show an intent to deceive, defraud or impose upon producers or  
 278 consumers; (9) has violated any stipulation or written agreement  
 279 entered into with the commissioner in the course of any proceeding  
 280 under this part; (10) has made a false material statement in his or her  
 281 application; [or] (11) has failed to provide information required under  
 282 this chapter; or (12) has failed to comply with the provisions of sections  
 283 1 to 10, inclusive, of this act or of any order or rule of the Connecticut  
 284 Milk Commission or of any regulation adopted by the Commissioner  
 285 of Agriculture.

286 Sec. 13. (NEW) (*Effective July 1, 2007*) If any part of sections 1 to 10,  
 287 inclusive, of this act is for any reason held to be invalid, unlawful or  
 288 unconstitutional, such decision shall not affect the validity of the  
 289 remaining portions and the remaining portions shall not be affected  
 290 and shall remain in full force and effect.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2007</i>	New section
Sec. 2	<i>July 1, 2007</i>	New section
Sec. 3	<i>July 1, 2007</i>	New section
Sec. 4	<i>July 1, 2007</i>	New section

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Sec. 5	<i>July 1, 2007</i>	New section
Sec. 6	<i>July 1, 2007</i>	New section
Sec. 7	<i>July 1, 2007</i>	New section
Sec. 8	<i>July 1, 2007</i>	New section
Sec. 9	<i>July 1, 2007</i>	New section
Sec. 10	<i>July 1, 2007</i>	New section
Sec. 11	<i>July 1, 2007</i>	22-203cc
Sec. 12	<i>July 1, 2007</i>	22-231
Sec. 13	<i>July 1, 2007</i>	New section

**Statement of Purpose:**

To provide for the long term viability of Connecticut dairy farmers.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*