General Assembly **Substitute Bill No. 1356**

January Session, 2007 *____SB01356JUD__050707___*

AN ACT CONCERNING THE ESTABLISHMENT OF A CONNECTICUT MILK COMMISSION.

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

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

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

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

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

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

(5) "Department" means the Department of Agriculture;

(6) "Integrated operation" means a person who is a dealer and who 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 employed pursuant to subsection (d)
78 of this section shall not have a business or professional relationship or
79 connection with or a financial interest in any producer, dealer, store or
80 other person whose activities are subject to the jurisdiction of the milk
81 commission. A member or employee of the milk commission shall not
82 render, or be a member of a firm that renders, any professional or
83 other service for or against a producer, dealer, store or other person
84 whose activities are subject to the jurisdiction of the milk commission.

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

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

108 (f) There is established a milk regulation account, which shall be a
109 separate, nonlapsing account within the General Fund. All monetary

110 penalties collected for violations of chapter 430 and chapter 431 of the
111 general statutes and of sections 1 to 10, inclusive, of this act, and all
112 license, permit or registration fees collected pursuant to said chapters
113 and said sections shall be deposited into said account. All costs
114 incurred by the milk commission in the discharge of its duties
115 pursuant to sections 1 to 10, inclusive, of this act shall be paid from
116 said account.

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

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

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

130 Sec. 4. (NEW) (*Effective July 1, 2007*) (a) The milk commission may,
131 in consultation with the Commissioner of Agriculture and after a
132 hearing held pursuant to the provisions of chapter 54 of the general
133 statutes: (1) Establish minimum prices for milk sold in the state; (2)
134 establish separate minimum price categories to reflect different
135 container costs; (3) establish separate minimum price categories for
136 different quantities of packaged milk and milk sold in separate
137 containers; (4) establish separate minimum price categories to reflect
138 identifiable distribution costs; (5) establish a system of premiums or
139 payments to milk producers for the production of particular types or
140 quality of milk, or for the production of milk which milk dealers
141 market as a specialty or value-added product which differs from

142 common milk offered for sale in the state, or to offset unusual market
143 or economic conditions which negatively affect milk producer
144 profitability; and (6) establish and change the minimum wholesale and
145 retail prices of milk sold or offered for sale in the state.

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

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

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

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

170 Sec. 6. (NEW) (*Effective July 1, 2007*) Every producer, cooperative,
171 milk handler, milk dealer, milk distributor and milk retailer shall keep
172 and provide to the milk commission, at such times and in a manner
173 and form as may be prescribed by the milk commission, accounts of all

business transacted in the state that is related to the production, purchasing, processing, sale or distribution of milk. Such accounts shall reasonably reflect, in such detail as the milk commission prescribes, income, expense, assets, liabilities and such other accounting entries as the milk commission considers necessary, to assist the milk commission in making its determinations.

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

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

(b) In administering sections 1 to 10, inclusive, of this act, the milk commission may: (1) Subpoena and examine under oath persons whose activities are subject to the jurisdiction of the milk commission,

207 including producers, dealers and stores and their officers, agents and
208 representatives; and (2) subpoena and examine the business records,
209 books and accounts of persons whose activities are subject to the
210 jurisdiction of the milk commission, including producers, dealers and
211 stores and their officers, agents and representatives.

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

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

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

228 Sec. 10. (NEW) (*Effective July 1, 2007*) The Commissioner of
229 Agriculture shall adopt regulations, in accordance with chapter 54 of
230 the general statutes, to carry out the purposes of sections 1 to 10,
231 inclusive, of this act.

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

234 Upon the establishment of the Northeast Interstate Dairy Compact
235 Commission as provided for in section 22-203aa, the Governor shall
236 appoint <u>two of</u> the state's delegation to said commission from among
237 the members of the **[**Milk Regulation Board established under section

238 22-131**]** Connecticut Milk Commission established pursuant to section
239 2 of this act. The **[**delegation shall include one member**]** Governor shall
240 appoint one additional member to the Northeast Interstate Dairy
241 Compact Milk Commission who represents the interests of **[**milk
242 consumers, one member who is a processor of milk and two members
243 who are**]** dairy farmers. **[**In addition to the members of the delegation
244 from the Milk Regulation Board, the Governor shall appoint one
245 retailer of milk to the delegation.**]**

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

248 The Commissioner of Agriculture may refuse to grant or renew a
249 license, or may suspend, revoke or refuse to transfer a license already
250 granted, after the commissioner has determined that the applicant or
251 dealer: (1) Has failed to comply, or has been a responsible member or
252 officer of a partnership or corporation which failed to comply, with
253 any provision of this part or any order, ruling, regulation or direction
254 issued hereunder; (2) has insufficient financial responsibility,
255 personnel or equipment to properly to conduct the milk business; (3) is
256 a person, partnership, corporation or other business entity, in which
257 any individual holding a material position, interest or power of control
258 has previously been responsible in whole or in part for any act on
259 account of which a license was or may be denied, suspended or
260 revoked under the provisions of this part; (4) has failed to file a bond
261 required by the commissioner under the provisions of this part; (5) if
262 located out of the state, has failed to obtain a satisfactory milk
263 sanitation compliance rating from a certified state milk sanitation
264 rating officer; (6) is not in compliance with all laws and regulations of
265 the state pertaining to health and sanitation in the production,
266 processing, handling or sale of milk; (7) has rejected, without
267 reasonable cause, any milk purchased from a producer, or has refused
268 to accept, without either reasonable cause or reasonable advance
269 notice, milk delivered by or on behalf of a producer in ordinary
270 continuance of a previous course of dealing, except when the contract
271 has been lawfully terminated; provided, in the absence of an express or

272 implied fixing of a period in the contract, "reasonable advance notice"
273 shall be construed to mean not less than one week or more than two
274 weeks; (8) has continued in a course of dealing of such nature as to
275 show an intent to deceive, defraud or impose upon producers or
276 consumers; (9) has violated any stipulation or written agreement
277 entered into with the commissioner in the course of any proceeding
278 under this part; (10) has made a false material statement in his or her
279 application; **[**or**]** (11) has failed to provide information required under
280 this chapter; or (12) has failed to comply with the provisions of sections
281 1 to 10, inclusive, of this act or of any order or rule of the Connecticut
282 Milk Commission or of any regulation adopted by the Commissioner
283 of Agriculture.

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	*July 1, 2007*	New section
Sec. 2	*July 1, 2007*	New section
Sec. 3	*July 1, 2007*	New section
Sec. 4	*July 1, 2007*	New section
Sec. 5	*July 1, 2007*	New section
Sec. 6	*July 1, 2007*	New section
Sec. 7	*July 1, 2007*	New section
Sec. 8	*July 1, 2007*	New section
Sec. 9	*July 1, 2007*	New section
Sec. 10	*July 1, 2007*	New section
Sec. 11	*July 1, 2007*	22-203cc
Sec. 12	*July 1, 2007*	22-231
Sec. 13	*July 1, 2007*	New section

ENV *Joint Favorable Subst.*

GAE *Joint Favorable*

GL *Joint Favorable*

JUD *Joint Favorable*