

Date of Hearing: April 15, 2021

ASSEMBLY COMMITTEE ON AGRICULTURE

Robert Rivas, Chair

AB 425 (Mathis) – As Introduced February 4, 2021

SUBJECT: Milk and other dairy products: Dairy Council of California Law: producer-handlers

SUMMARY: This bill makes several technical, conforming and needed changes to the California Dairy law. Specifically, *this bill*:

- 1) Removes producer-handlers from operation of the provisions of the Dairy Council of California Law (DCC law), by revising the provisions of the DCC law to delete the definition of, and all references to, producer-handlers.
- 2) Deletes provision regarding payment by a handler of less than the minimum producer price established under the applicable stabilization and marketing plan, an unlawful trade practice.
- 3) Requires the secretary to collect \$0.0033 per hundredweight of all milk, instead of all eligible milk.
- 4) Makes the payment by a handler of less than the minimum producer price established under the applicable stabilization and marketing plan an unlawful trade practice.
- 5) Allows the CDFA to adopt, by regulation, official final action methods of testing for the determination of the components of milk and products of milk for purposes of compliance with these laws.
- 6) Provides that CDFA's authority to enforce federal milk labeling requirements shall not be construed to supersede or negate certain state-imposed standards of identity or compositional requirements for milk.
- 7) Revises the definition of "total consideration paid or exchanged for raw product" in the case of market milk or market cream, as specified.

EXISTING LAW:

- 1) Establishes DCC law within the state government and prescribes the membership of the council to be appointed by the Secretary of CDFA including 12 members that are producers and 12 members that are handlers or producer-handlers, as defined. DCC law also sets forth various requirements applicable to producers, handlers, and producer-handlers, including the payment of certain assessments on milk and participating in certain referendum procedures.
- 2) Requires CDFA to collect, as prescribed, from each producer \$0.0033 per hundredweight of all eligible milk to defray the reasonable costs of administering the law relating to milk, as specified.
- 3) Establishes labeling and quality standards for milk and milk products, makes it a crime to violate those provisions, and authorizes the secretary to enforce those provisions.

- 4) Makes it an unlawful practice for a retailer, wholesale customer, manufacturer, or distributor, as defined, to sell milk, cream, or any dairy product at less than cost.

FISCAL EFFECT: Unknown.

COMMENTS: Milk pricing has been regulated in some form since 1935. The California Milk Pooling Act and Price Stabilization Plans were created in 1967 in an effort to stabilize milk pricing and end fluid milk processor's practice of bidding wars between producers that set producers against each other in the market place, leaving some producers without a market for their milk. California is the only state milk pool. Federal milk pools were authorized in the 1930s, under the Federal Marketing Order law; some have been terminated over the years, others have had boundary changes, and some areas, such as Idaho, do not have a pooling system.

Starting in October of 2018, California milk producers moved to a Federal Milk Marketing Order (FMMO), the culmination of a four-year process. California milk producers petitioned USDA to form a FMMO for California. USDA held hearings throughout the state, developed a FMMO with input from both milk producers and milk processors, and finally last year voted to enter into the FMMO for California. When California dairy producers move to the FMMO, California law requires the suspension of any milk pooling laws and regulations if a FMMO is enacted and the California laws and regulations are in conflict with the FMMO. AB 590 (Mathis) Chapter 304, Statutes of 2019, addressed needed changes to DCC law and the Milk Producers Security Trust Fund to conform to federal law.

According the author this bill is a clean-up of AB 590 (2019), which made several revisions to the Dairy Council of California Law and the Dairy Council of California. The bill conforms the definition of producer-handler to the FMMO, clarifies CDFA ability to impose states standards on milk, and makes technical changes.

Supporters state, this bill is necessary for establishing a valid benchmark for the state's enforcement against unlawful practices. The unlawful practices section of the California Food and Agriculture Code prevents dairy business from engaging in predatory practices that undermine the marketplace. Predatory practices are destructive in the marketplace because they can potentially result in larger companies putting smaller ones of business with resulting harm to both producers, who will face fewer buyers and reduced bargaining power, and consumers, who eventually see higher prices than they would otherwise. Without the provisions in this bill, CDFA will not have a clear objective standard of milk cost and will not be able to effectively enforce these unlawful practice prohibitions.

REGISTERED SUPPORT / OPPOSITION:

Support

Dairy Institute of California

Opposition

None on file.

Analysis Prepared by: Victor Francovich / AGRI. / (916) 319-2084