

instrument shall bear, unless it has been previously adjudicated in the courts of this state.

Passed the House March 12, 1971.

Passed the Senate May 1, 1971.

Approved by the Governor May 21, 1971.

Filed in Office of Secretary of State May 21, 1971.

CHAPTER 230

[Engrossed House Bill No. 52]

WASHINGTON STATE MILK POOLING ACT

AN ACT Relating to the production of milk; providing penalties; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. Section 1. This act may be known and cited as the Washington state milk pooling act to provide for equitable pooling among producers.

NEW SECTION. Sec. 2. The production and distribution of milk is hereby declared to be a business affected with the public interest. The provisions of this act are enacted for the purpose of protecting the health and welfare of the people of this state.

NEW SECTION. Sec. 3. It is hereby declared that milk is a necessary article of food for human consumption; that the production and maintenance of an adequate supply of healthful milk of proper chemical and physical content, free from contamination, is vital to the public health and welfare.

NEW SECTION. Sec. 4. It is recognized by the legislature that conditions within the milk industry of this state are such that it may be necessary to establish marketing areas wherein pooling arrangements between producers are necessary, and for that purpose the director shall have the administrative authority, with such additional duties as are herein prescribed, after investigations and public hearings, to prescribe such marketing areas and modify the same when advisable or necessary.

NEW SECTION. Sec. 5. The statement of facts, policy, and application of this act as set forth in sections 1 through 4 is hereby declared a matter of legislative determination.

NEW SECTION. Sec. 6. The purposes of this act are to:

(1) Authorize and enable the director to prescribe marketing areas and to establish pooling arrangements which are necessary due to varying factors of costs of production, health regulations, transportation, and other factors in said marketing areas of this state;

(2) Authorize and enable the director to formulate marketing plans subject to the provisions of this act with respect to the contents of such pooling arrangements and declare such plans in effect for any marketing area;

(3) Provide funds for administration and enforcement of this act by assessments to be paid by producers.

NEW SECTION. Sec. 7. It is the intent of the legislature that the powers conferred in this act shall be liberally construed. Nothing in this act shall be construed as permitting or authorizing the development of conditions of monopoly in the production or distribution of milk.

NEW SECTION. Sec. 8. For the purposes of this act:

(1) "Department" means the department of agriculture of the state of Washington;

(2) "Director" means the director of the department or his duly appointed representative;

(3) "Person" means a natural person, individual, firm, partnership, corporation, company, society, and association, and every officer, agent, or employee thereof. This term shall import either the singular or plural as the case may be;

(4) "Market" or "marketing area" means any geographical area within the state comprising one or more counties or parts thereof, or one or more cities or towns or parts thereof where marketing conditions are substantially similar and which may be designated by the director as one marketing area;

(5) "Milk" means all fluid milk as defined in chapters 15.32 and 15.36 RCW as enacted or hereafter amended and rules adopted thereunder;

(6) "Milk products" includes any product manufactured from milk or any derivative or product of milk;

(7) "Milk dealer" means any person engaged in the handling of milk in his capacity as the operator of a milk plant, a country plant or any other plant from which milk or milk products are disposed of to any place or establishment within a marketing area other than to a plant in such marketing area;

(8) "Producer" means a person producing milk within this state for sale under a grade A milk permit issued by the department under the provisions of chapter 15.36 RCW as enacted or hereafter amended;

(9) "Classification" means the classification of milk into classes according to its utilization by the department.

(10) "Producer-dealer" means a producer who engages in the production as well as the distribution of milk products.

NEW SECTION. Sec. 9. The director shall in carrying out the provisions of this act and any marketing plan thereunder confer with the legally constituted authorities of other states of the United

States, and the United States department of agriculture, for the purpose of seeking uniformity of milk control with respect to milk coming in to the state and going out of the state in interstate commerce with a view to accomplishing the purposes of this act, and may enter into a compact or compacts which will insure a uniform system of milk control between this state and other states.

NEW SECTION. Sec. 10. Subject to the provisions of this act and the specific provisions of any marketing plan established thereunder, the director is hereby vested with the authority:

(1) To investigate all matters pertaining to the production, processing, storage, transportation, and distribution of milk and milk products in the state, and including but not limited to the authority to:

(a) prescribe the method and time of payment to be made to producers by dealers in accordance with a marketing plan for milk;

(b) determine what constitutes a natural milk market area;

(c) determine by using uniform rules, what portion of the milk produced by each producer subject to the provisions of a marketing plan shall be marketable in fluid form and what proportion so produced shall be considered as surplus; such determination shall also apply to milk dealers who purchase or receive milk, for sale or distribution in such marketing area, from plants whose producers are not subject to such pooling arrangements;

(d) provide for the pooling and averaging of all returns from the sales of milk in a designated market area, and the payment to all producers of a uniform pool price for all milk so sold;

(e) provide and establish distributor pools or market pools for a designated market area with such rules and regulations as the director may adopt;

(f) employ an executive officer, who shall be known as the milk pooling administrator;

(g) employ such persons as may be necessary and incur all expenses necessary to carry out the purposes of this act;

(h) determine by rule, what portion of any increase in the demand for fluid milk subject to a pooling arrangement and marketing plan providing for quotas shall be assigned new producers or existing producers.

(2) To issue subpoenas to compel the attendance of witnesses and/or the production of books, documents, and records anywhere in the state in any hearing affecting the authority of privileges granted by a license issued under the provisions of this act. Witnesses shall be entitled to fees for attendance and travel as provided for in chapter 2.40 RCW as enacted or hereafter amended;

(3) To make, adopt, and enforce all rules necessary to carry out the purpose of this act subject to the provisions of chapter

34.04 RCW concerning the adoption of rules, as enacted or hereafter amended: PROVIDED, That nothing contained in this act shall be construed to abrogate or affect the status, force, or operation of any provision of the public health laws enacted by the state or any municipal corporation or the public service laws of this state.

NEW SECTION. Sec. 11. (1) The director, either upon his own motion or upon petition by ten percent of the producers in any proposed area, shall conduct a hearing to determine whether to establish or discontinue a market area pooling arrangement. Upon determination by the director that in order to satisfy the purposes of this act a pooling arrangement should either be established or terminated, a referendum of affected individual producers shall be conducted by the department.

(a) Sixty-six and two-thirds percent of the producers that vote must be in favor of establishing a market area and pooling plan before it can be put into effect by the director. The director, within one hundred twenty days from the date the results of the referendum are filed with the secretary of state, shall establish a market pool in the market area, as provided for in this act.

(b) If fifty-one percent of those voting representing fifty-one percent of the milk produced in the market area vote to terminate a pooling plan, the director, within one hundred twenty days, shall terminate all the provisions of said market area and pooling arrangement.

NEW SECTION. Sec. 12. (1) The producers qualified to sign a petition, or to vote in any referendum concerning a market pool, shall be all those producers shipping milk to the market area on a regular supply basis and who would or do receive or pay equalization in an existing market pool in a market area, or in a market pool if established in such market area.

(2) The director is authorized during business hours to review the books and records of handlers to obtain a list of the producers qualified to sign petitions or to vote in referendums.

NEW SECTION. Sec. 13. Petitions filed with the director by producers shall:

(1) Consist of one or more pages, each of which is dated at the bottom. The date shall be inserted on each sheet prior to, or at the time the first signature is obtained on each sheet. The director shall not accept a sheet on which such date is more than sixty days, prior to the time it is filed with the director. After a petition is filed, additional pages may be filed if time limits have not expired.

(2) Contain wording at the top of each page which clearly explains to each person whose signature appears thereon the meaning and intent of the petition. Such wording shall also clearly indicate to the director if it is in reference to a request for public

hearing, exactly what matters are to be studied and desired. Similar information must be directed to the director if the matter relates to a referendum. The director has the authority to clarify wording from a petition before making it a part of a referendum.

No informalities or technicalities in the conduct of a referendum, or in any matters relating thereto, shall invalidate any referendum if it is fairly and reasonably conducted by the director.

NEW SECTION. Sec. 14. (1) The director shall establish a system of pooling of all milk used in each market area established under section 11 of this act.

(2) Thereafter the director shall establish a system in each market area for the equalization of returns for all quota milk and all surplus over quota milk whereby all producers selling milk to milk dealers or delivering milk in such market area, will receive the same price for all quota milk and all surplus over quota milk, except that any premium paid to a producer by a dealer above established prices shall not be considered in determining average pool prices.

NEW SECTION. Sec. 15. (1) Under a market pool and as used in this section, "quota" means a producer's portion of the total sales of class I milk in a market area plus a reserve determined by the director.

(2) The director shall in each market area subject to a market plan establish each producer's initial quota in the market area. Such initial quota shall be determined by the department after due notice and the opportunity for a hearing as provided in chapter 34.04 RCW. In making this determination, consideration shall be given to a history of the producer's production record.

In any system of establishing quotas, provision shall be made for new producers to qualify for allocation of quota in a reasonable proportion and for old and new producers to participate in any new class I sales in a reasonable proportion.

All subsequent changes or new quota issued shall be determined by the department after due notice and the opportunity for a hearing as provided in chapter 34.04 RCW.

NEW SECTION Sec. 16. No provision of this act shall be deemed or construed to:

(1) Affect or impair the contracts of any such cooperative association with its members or other producers marketing their milk through such corporation;

(2) Impair or affect any contract which any such cooperative association has with milk dealers or others which are not in violation of this act;

(3) Affect or abridge the rights and powers of any such cooperative association conferred by the laws of this state under which it is incorporated.

NEW SECTION. Sec. 17. Quotas provided for in this act may not in any way be transferred without the consent of the director. Regulations regarding transfer of quotas shall be determined by the department after due notice and the opportunity for a hearing as provided in chapter 34.04 RCW. Any contract for the transfer of quotas, unless the transfer has previously been approved by the director, shall be null and void. The director shall make rules and regulations to preclude any person from using a corporation as a device to evade the provisions of this section. The quotas assigned to any corporation shall become null and void as of any time the corporation does not own the means of production to which the quotas pertain. Quotas shall in no event be considered as property not to be taken or abolished by the state without compensation.

NEW SECTION. Sec. 18. The director shall examine and audit not less than one time each year or at any other such time he considers necessary, the books and records, and may photostat such books, records, and accounts of milk dealers and cooperatives licensed or believed subject to license under this act for the purpose of determining:

(1) How payments to producers for the milk handled are computed and whether the amount of such payments are in accordance with the applicable marketing plan;

(2) If any provisions of this act affecting such payments directly or indirectly have been or are being violated.

No person shall in any way hinder or delay the director in conducting such examination.

NEW SECTION Sec. 19. All milk dealers subject to the provisions of this act shall keep the records as deemed necessary by the director.

NEW SECTION. Sec. 20. Each milk dealer subject to the provisions of this act shall from time to time, as required by rule of the director, make and file a verified report, on forms prescribed by the director, of all matters on account for which a record is required to be kept, together with such other information or facts as may be pertinent and material within the scope of the purpose of this act. Such reports shall cover a period specified in the order, and shall be filed within a time fixed by the director.

NEW SECTION. Sec. 21. It shall be unlawful for any milk dealer subject to the provisions of a marketing plan to handle milk subject to the provisions of such marketing plan without first obtaining an annual license from the director for each separate place of business where such milk is received or sold. Such license shall be in addition to any other license required by the laws of this state: PROVIDED, That the provisions of this section shall not become effective for a period of sixty days subsequent to the

inception of a marketing plan in any marketing area prescribed by the director.

NEW SECTION. Sec. 22. Application for a license to act as a milk dealer shall be on a form prescribed by the director and shall contain, but not be limited to, the following:

- (1) The nature of the business to be conducted;
- (2) The full name and address of the person applying for the license if an individual; and if a partnership, the full name and address of each member thereof; and if a corporation, the full name and address of each officer and director;
- (3) The complete address at which the business is to be conducted;
- (4) Facts showing that the applicant has adequate personnel and facilities to properly conduct the business of a milk dealer;
- (5) Facts showing that the applicant has complied with all the rules prescribed by the director under the provisions of this act;
- (6) Any other reasonable information the director may require.

NEW SECTION. Sec. 23. (1) Application for each milk dealer's license shall be accompanied by an annual license fee of five dollars.

(2) If an application for the renewal of a milk dealer's license is not filed on or before the first day of an annual licensing period a fee of three dollars shall be assessed and added to the original fee and shall be paid by the applicant before the renewal license shall be issued: PROVIDED, That such additional assessment shall not apply if the applicant furnishes an affidavit that he has not acted as a milk dealer subsequent to the expiration of his prior license.

NEW SECTION. Sec. 24. The director may deny, suspend, or revoke a license upon due notice and an opportunity for a hearing as provided in chapter 34.04 RCW, concerning contested cases, as enacted or hereafter amended, or rules adopted thereunder by the director, when he is satisfied by a preponderance of the evidence of the existence of any of the following facts:

- (1) A milk dealer has failed to account and make payments without reasonable cause, for milk purchased from a producer subject to the provisions of this act or rules adopted hereunder;
- (2) A milk dealer has committed any act injurious to the public health or welfare or to trade and commerce in milk;
- (3) A milk dealer has continued in a course of dealing of such nature as to satisfy the director of his inability or unwillingness to properly conduct the business of handling or selling milk, or to satisfy the director of his intent to deceive or defraud producers subject to the provisions of this act or rules adopted hereunder;
- (4) A milk dealer has rejected without reasonable cause any

milk purchased or has rejected without reasonable cause or reasonable advance notice milk delivered in ordinary continuance of a previous course of dealing, except where the contract has been lawfully terminated;

(5) Where the milk dealer is insolvent or has made a general assignment for the benefit of creditors or has been adjudged bankrupt or where a money judgment has been secured against him upon which an execution has been returned wholly or partially satisfied;

(6) Where the milk dealer has been a party to a combination to fix prices, contrary to law; a cooperative association organized under chapter 24.32 RCW and making collective sales and marketing milk pursuant to the provisions of such act shall not be deemed or construed to be a conspiracy or combination in restraint of trade or an illegal monopoly;

(7) Where there has been a failure either to keep records or to furnish statements or information required by the director;

(8) Where it is shown that any material statement upon which the license was issued is or was false or misleading or deceitful in any particular;

(9) Where the applicant is a partnership or a corporation and any individual holding any position or interest or power of control therein has previously been responsible in whole or in part for any act for which a license may be denied, suspended, or revoked, pursuant to the provisions of this act or rules adopted hereunder;

(10) Where the milk dealer has violated any provisions of this act or rules adopted hereunder;

(11) Where the milk dealer has ceased to operate the milk business for which the license was issued.

NEW SECTION. Sec. 25. There is hereby levied upon all milk sold or received in any marketing area subject to a marketing plan established under the provisions of this act an assessment, not to exceed five cents per one hundred pounds of all such milk, to be paid by the producer of such milk. Such assessment shall be collected by the first milk dealer who receives or handles such milk from any producer or his agent subject to such marketing plan and shall be paid to the director.

The amount to be assessed and paid to the director under any marketing plan shall be determined by the director within the limits prescribed by this section and shall be determined according to the necessities required to carry out the purpose and provisions of this act under any such marketing plan.

Upon the failure of any dealer to withhold out of amounts due to or to become due to a producer at the time a dealer is notified by the director of the amounts to be withheld and upon failure of such dealer to pay such amounts, the director subject to the provisions of



section 26 of this act, may revoke the license of the dealer required by section 23 of this act. The director may commence an action against the dealer in a court of competent jurisdiction in the county in which the dealer resides or has his principal place of business to collect such amounts. If it is determined upon such action that the dealer has wrongfully refused to pay the amounts the dealer shall be required to pay, in addition to such amounts, all the costs and disbursements of the action, to the director as determined by the court. If the director's contention in such action is not sustained, the director shall pay to the dealer all costs and disbursements of the action as determined by the court.

NEW SECTION. Sec. 26. Each licensee, in addition to other records required under the provisions of this act, shall keep such records and make such reports as the director may require for the purpose of computing payments of assessments by such licensee.

NEW SECTION. Sec. 27. All assessments on milk subject to the provisions of this act and a marketing order shall be paid to the director on or before the twentieth day of the succeeding month for the milk which was received or handled in the previous month.

NEW SECTION. Sec. 28. The director shall establish a separate account for each marketing plan established under the provisions of this act, and all license fees and assessments collected under any such marketing plan shall be deposited in its separate account to be used only for the purpose of carrying out the provisions of such marketing plan: PROVIDED, That the director may deduct from each such account the necessary costs incurred by the department. Such costs shall be prorated among the several marketing plans if more than one is in existence under the provisions of this act.

NEW SECTION. Sec. 29. In addition to any other remedy provided by law, the director in the name of the state shall have the right to sue in any court of competent jurisdiction for the recovery of any moneys due it from any persons subject to the provisions of this act and shall also have the right to institute suits in equity for injunctive relief and for purpose of enforcement of the provisions of this act.

NEW SECTION. Sec. 30. Any violation of this act and/or rules and regulations adopted thereunder shall constitute a misdemeanor: PROVIDED, That this section shall not apply to retail purchasers who purchase milk for domestic consumption.

NEW SECTION. Sec. 31. The provisions of this act shall not apply to a producer who acts as a milk dealer only for milk he produces on his own dairy farm from cows which he owns or is purchasing: PROVIDED, That such producer shall lease or own his processing facilities, or that he shall not have more than

seventy-five percent of the milk he produces processed, bottled, or packaged by another milk dealer or producer who acts as a dealer: PROVIDED FURTHER, That such milk producer shall remain exempt from the provisions of this act if he purchases not more than ten percent of the milk he handled from another producer or milk dealer and if he sells any excess production from his farm or farms to the pool at the lowest use classification price.

NEW SECTION. Sec. 32. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provisions to other persons or circumstances, is not affected.

NEW SECTION. Sec. 33. This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House May 1, 1971.

Passed the Senate April 28, 1971.

Approved by the Governor May 21, 1971.

Filed in Office of Secretary of State May 21, 1971.

CHAPTER 231

[Engrossed Substitute House Bill No. 69]

REGULATION OF MOBILE HOMES, TRAVEL TRAILERS, AND CAMPERS

AN ACT Relating to the regulation of mobile homes, travel trailers, and campers; amending section 46.08.090, chapter 12, Laws of 1961 as amended by section 13, chapter 156, Laws of 1965 and RCW 46.01.130; amending section 46.08.100, chapter 12, Laws of 1961 as last amended by section 14, chapter 156, Laws of 1965 and RCW 46.01.140; amending section 46.16.100, chapter 12, Laws of 1961 as amended by section 5, chapter 170, Laws of 1969 ex. sess. and RCW 46.16.100; amending section 57, chapter 83, Laws of 1967 ex. sess. as amended by section 6, chapter 170, Laws of 1969 ex. sess. and RCW 46.16.111; amending section 46.68.030, chapter 12, Laws of 1961 as last amended by section 25, chapter 281, Laws of 1969 ex. sess. and RCW 46.68.030; adding a new section to chapter 46.01 RCW; adding new sections to chapter 46.04 RCW; adding new sections to chapter 46.12 RCW; adding new sections to chapter 46.16 RCW; adding a new section to chapter 46.70 RCW; prescribing penalties; and providing effective dates.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Section. 1. Section 57, chapter 83, Laws of 1967 ex. sess. as