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**A BILL FOR AN ACT**

RELATING TO MILK.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. In 1988, the local dairy industry reached its  
2 highest production, valued at over \$33,300,000, and met all of  
3 the local demands for milk by consumers in the State. Once  
4 ranked as one of the top three sectors of diversified  
5 agriculture, the dairy industry has experienced a steady  
6 decline, and in 2005, production value decreased to \$18,300,000.  
7 The producers currently are able to produce only enough milk to  
8 meet thirty per cent of consumer demand.

9           There are two milk sheds in the State - the Honolulu milk  
10 shed, which is currently comprised of only one dairy, and the  
11 Hawaii milk shed, which is comprised of two dairies - providing  
12 locally produced milk to the State. The price paid to the  
13 producers is based upon the utilization of the milk by the  
14 processor for the dairy products produced. The minimum price of  
15 class I milk (milk utilized for fluid consumption), is regulated  
16 by the department of agriculture and is currently set at \$31.50  
17 per hundredweight in the Honolulu milk shed and \$29.53 per  
18 hundredweight in the Hawaii milk shed. However, a lower

1 calculated price is paid to the producer for milk classified by  
2 the processor as class II milk and utilized by the processor for  
3 production of non-fluid dairy products, such as cottage cheese,  
4 yogurt, and ice cream. In October 2007, the producers were paid  
5 \$20.61 per hundredweight for class II milk.

6 The purpose of this Act is to help ensure the availability  
7 of fresh milk for fluid consumption in Hawaii.

8 SECTION 2. Section 157-1, Hawaii Revised Statutes, is  
9 amended by amending the definitions of "class I milk" and  
10 "shortage" to read as follows:

11 "Class I milk" includes all Hawaii-produced fresh milk or  
12 fresh milk constituents to be utilized in fluid form for human  
13 consumption, including pasteurized milk, cream, half-and-half,  
14 whole milk, skim milk, buttermilk, flavored milk, flavored skim  
15 milk, reconstituted or recombined milk, and filled milk. All  
16 [~~such~~] Hawaii-produced fresh milk [~~received by a processing~~  
17 ~~plant~~] up to one hundred per cent of the total production quotas  
18 for all milk sheds in the State shall be deemed to be utilized  
19 as class I unless [~~utilization is in class II,~~] in an excess  
20 pool, or as plant shrinkage and route returns are proven."

21 "Shortage" means that [~~no milk is utilized for class II~~  
22 ~~purposes.~~] production of Hawaii-produced milk is less than one

1 hundred per cent of the total production quotas for all of the  
2 milk sheds in the State."

3 SECTION 3. Section 157-34, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "§157-34 Determination of quotas. (a) To promote a  
6 proper balance between supply and demand for milk, the board  
7 shall provide that the price to be paid to producers shall be  
8 based upon quota assigned each producer by the board, which  
9 quota shall be determined as follows: upon petition or  
10 chairperson's motion as set out in section 157-31, there shall  
11 be established an initial quota for each producer and producer-  
12 distributor, which shall be the average of the amount of milk  
13 that the producer or producer-distributor produced and delivered  
14 during the three-year period prior to January 1, 1967; provided  
15 that if a producer or producer-distributor had not been in  
16 business for such period, the board may also take into account  
17 the producer's or producer-distributor's prior production,  
18 contract and the producer's or producer-distributor's  
19 investment; and provided further that in any milk shed  
20 established subsequent to January 1, 1971, the board shall  
21 establish an initial quota for each producer and producer-  
22 distributor which shall be the average of the amount of milk

1 that the producer or producer-distributor produced and delivered  
2 during the twelve-month period immediately prior to the date of  
3 petition or chairperson's motion, and may also take into account  
4 prior production, contract and investment factors where any of  
5 the producers or producer-distributors shall not have been in  
6 business for such twelve-month period. The board shall set the  
7 initial quota of a newly licensed producer or producer-  
8 distributor entering the market by taking into account all  
9 relevant market conditions and the capabilities of the licensee.  
10 The board may adjust the initial quotas on a pro rata basis to  
11 meet changes in market requirements.

12 (b) For each milk shed in which quota control or price  
13 control or both is to be established, producers or producer-  
14 distributors whose dairies are located outside such milk shed  
15 shall participate in said quota control or price control, or  
16 both, for milk regularly supplied within the affected milk shed.  
17 However, in setting the minimum price for the milk the board  
18 shall consider only those costs incurred by producers located  
19 within the affected milk shed. Any milk delivered and utilized  
20 in a milk shed shall be subject to all the provisions and  
21 regulations applicable to that milk shed.

1           (c) When the amount of milk resold for human consumption  
2 as fluid milk does not exceed the sum of the quotas to be  
3 regularly supplied a distributor or producer-distributor, such  
4 fluid consumption milk shall be deemed taken ratably from the  
5 quotas actually supplied, and payment shall be made accordingly.  
6 The board shall determine which producers, not under written  
7 contract with a distributor or producer-distributor, are regular  
8 suppliers of milk. The remaining milk not used for human fluid  
9 consumption shall be paid for according to its use. However,  
10 when the producer-distributor or distributor resells milk, other  
11 than recombined or reconstituted milk, for fluid consumption in  
12 an amount in excess of all quotas assigned producers or  
13 producer-distributors regularly supplying the producer-  
14 distributor or distributor milk, then the fluid consumption  
15 prices shall apply pro rata to surplus milk, in the ratio that a  
16 producer's quota bears to the sum of the quotas. However,  
17 whenever there is quota milk available for purchase within the  
18 milk shed, surplus milk may not be used as milk to be resold for  
19 human consumption as fluid milk.

20           (d) From time to time when required to meet changes in  
21 conditions, the board may alter, revise, or adjust the total  
22 quota in any milk shed by rule, pursuant to section 157-

1 31(a)(1), or by order, without regard for the notice and public  
2 hearing requirements of chapter 91, based on specific formulas  
3 or criteria adopted under section 157-31(a)(2). An order to  
4 alter, revise, or adjust the total quota for the production of  
5 milk in a milk shed shall be subject to the notice requirements  
6 set forth in sections 157-33(a)(1) and 157-33(a)(2) for an order  
7 fixing minimum prices or salvage values.

8 (e) The board may promulgate rules and regulations  
9 governing the transfer of quotas.

10 ~~[(f) No producer or producer distributor shall have a~~  
11 ~~quota exceeding twenty per cent of the total quotas established~~  
12 ~~in the State. When quotas are established for a milk shed in~~  
13 ~~the State, no producer or producer distributor shall have a~~  
14 ~~quota exceeding twenty per cent of the total quota established~~  
15 ~~in such milk shed, provided that any producer or producer-~~  
16 ~~distributor whose quota shall exceed twenty per cent in any such~~  
17 ~~milk shed on June 7, 1971, may continue to maintain such quota~~  
18 ~~in such milk shed, but may not thereafter increase its quota~~  
19 ~~percentage in such milk shed or in any other milk shed. The~~  
20 ~~board may, however, waive the requirements of this subsection~~  
21 ~~within any milk shed when it finds that such action is necessary~~  
22 ~~to insure the availability of an adequate supply of milk to the~~

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1 ~~consuming public within such milk shed to promote stability of~~  
2 ~~the dairy industry in said milk shed and will further be in the~~  
3 ~~public interest. For the purpose of this section, an~~  
4 ~~agricultural cooperative shall not be counted as a producer.]"~~

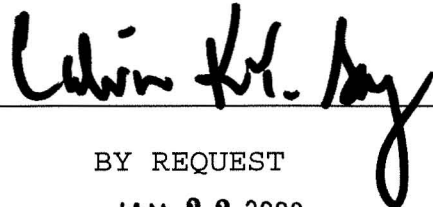
5 SECTION 4. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:



10

BY REQUEST

JAN 22 2008

**Report Title:**  
Milk

**Description:**  
Ensures that the remaining Hawaii dairy producers are paid a price commensurate with the quality of the milk they produce.



JUSTIFICATION SHEET

DEPARTMENT: Agriculture

TITLE: A BILL FOR AN ACT RELATING TO MILK.

PURPOSE: To provide the remaining Hawaii dairy producers with the ability to receive a fair price for their product.

MEANS: Amend sections 157-1 and 157-34, Hawaii Revised Statutes.

JUSTIFICATION: Hawaii residents and visitors should feel confident that the milk they are consuming is the safest and most nutritious form of fresh milk available. In Hawaii, that means the milk produced on Oahu and Hawaii island should be utilized for fluid consumption rather than utilizing it for other dairy products.

The Milk Control Act regulates the milk quota assigned to each producer and the minimum price of fluid milk paid to the milk producers. The minimum price for class I milk is set by the Hawaii administrative rules and the one Hawaii processor determines how the milk is utilized. The class I price is paid to the producer by the processor when milk is used for fluid consumption, and the lower class II price is paid when milk is utilized by the processor for other non-fluid dairy products, such as yogurt, and cottage cheese.

Currently, there is no control over the amount or source of milk used by the processor for class I or class II purposes. The price differential paid to a producer for class I milk versus class II milk could range from two percent to twelve percent within one month.

This amendment will help to ensure that more locally produced milk will be utilized for fluid consumption.

Impact on the public: Amendment to sections 157-1 and 157-34 will help to ensure the availability of fresh milk for fluid consumption in Hawaii.

Impact on the department and other agencies: Amendment to sections 157-1 and 157-34 will enable the department to further stabilize and promote the growth of the dairy industry and thereby contribute to a healthier population.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: AGR 151.

OTHER AFFECTED  
AGENCIES: None.

EFFECTIVE DATE: Upon approval.