
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 30 per cent of consumer demand.

9 With the closure of Oahu's only remaining dairy on February
10 15, 2008, there is only one milk shed in the state - the Hawaii
11 milk shed, which comprises two dairies - providing locally-
12 produced milk to the state. The price paid to the producers is
13 based upon the use of the milk by the processor for the dairy
14 products produced. The minimum price of class I milk (milk used
15 for fluid consumption), is regulated by the department of
16 agriculture and is currently set at \$29.53 per hundredweight in
17 the Hawaii milk shed. However, a lower calculated price is paid
18 to the producer for milk classified by the processor as class II



1 milk and used by the processor for production of non-fluid dairy
2 products, such as cottage cheese, yogurt, and ice cream. In
3 October 2007, the Hawaii milk shed was paid \$20.61 per
4 hundredweight for class II milk.

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

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

10 "Class I milk" includes all Hawaii-produced fresh milk or
11 fresh milk constituents to be [~~utilized~~] used in fluid form for
12 human consumption, including pasteurized milk, cream, half-and-
13 half, whole milk, skim milk, buttermilk, flavored milk, flavored
14 skim milk, reconstituted or recombined milk, and filled milk.
15 All [~~such~~] Hawaii-produced fresh milk [~~received by a processing~~
16 ~~plant~~], up to one hundred per cent of the total production
17 quotas for all milk sheds in the state, shall be deemed to be
18 [~~utilized~~] used as class I unless [~~utilization is in class II,~~]
19 in an excess pool, or as plant shrinkage and route returns are
20 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
20 [~~utilized~~] used in a milk shed shall be subject to all the
21 provisions and 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 the specific
3 formulas or criteria adopted under section 157-31(a)(2). An
4 order to alter, revise, or adjust the total quota for the
5 production of milk in a milk shed shall be subject to the notice
6 requirements set forth in sections 157-33(a)(1) and 157-33(a)(2)
7 for an order 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~~



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.



Report Title:
Milk

Description:
Ensures that the remaining Hawaii dairy producers are paid a price commensurate with the quality of the milk they produce.
(HB3034 HD1)

