



GOV. MSG. NO. 688

EXECUTIVE CHAMBERS  
HONOLULU

LINDA LINGLE  
GOVERNOR

April 30, 2008

The Honorable Colleen Hanabusa, President  
and Members of the Senate  
Twenty-Fourth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on April 30, 2008, the following bill was signed into law:

SB2956 SD1 HD1

A BILL FOR AN ACT RELATING TO MILK.  
(ACT 46)

Sincerely,

  
LINDA LINGLE

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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 30 per cent of consumer demand.

9 There are two milk sheds in the state - the Honolulu milk  
10 shed, which is currently comprises only one dairy, and the  
11 Hawaii milk shed, which comprises 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 used 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.  
18 quotas for all milk sheds in the state, shall be deemed to be  
19 utilized as class I unless utilization is [~~in class II,~~] in an  
20 excess pool, or as plant shrinkage and route returns are  
21 proven."



1 "Shortage" means that ~~[no milk is utilized for class II~~  
2 ~~purposes.]~~ the production of Hawaii-produced milk is less than  
3 one hundred per cent of the total production quotas for all of  
4 the milk sheds in the state."

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

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



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

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



1 in a milk shed shall be subject to all the provisions and  
2 regulations applicable to that milk shed.

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



1 (d) From time to time when required to meet changes in  
2 conditions, the board may alter, revise, or adjust the total  
3 quota in any milk shed by rule, pursuant to section  
4 157-31(a)(1), or by order, without regard for the notice and  
5 public hearing requirements of chapter 91, based on specific  
6 formulas or criteria adopted under section 157-31(a)(2). An  
7 order to alter, revise, or adjust the total quota for the  
8 production of milk in a milk shed shall be subject to the notice  
9 requirements set forth in sections 157-33(a)(1) and 157-33(a)(2)  
10 for an order fixing minimum prices or salvage values.

11 (e) The board may [~~promulgate~~] adopt rules [~~and~~  
12 ~~regulations~~] governing the transfer of quotas.

13 [~~(f) No producer or producer distributor shall have a~~  
14 ~~quota exceeding twenty per cent of the total quotas established~~  
15 ~~in the State. When quotas are established for a milk shed in~~  
16 ~~the State, no producer or producer distributor shall have a~~  
17 ~~quota exceeding twenty per cent of the total quota established~~  
18 ~~in such milk shed; provided that any producer or producer-~~  
19 ~~distributor whose quota shall exceed twenty per cent in any such~~  
20 ~~milk shed on June 7, 1971, may continue to maintain such quota~~  
21 ~~in such milk shed, but may not thereafter increase its quota~~  
22 ~~percentage in such milk shed or in any other milk shed. The~~



1 ~~board may, however, waive the requirements of this subsection~~  
2 ~~within any milk shed when it finds that such action is necessary~~  
3 ~~to insure the availability of an adequate supply of milk to the~~  
4 ~~consuming public within such milk shed to promote stability of~~  
5 ~~the dairy industry in said milk shed and will further be in the~~  
6 ~~public interest. For the purpose of this section, an~~  
7 ~~agricultural cooperative shall not be counted as a producer.]"~~

8 SECTION 4. The department of agriculture shall engage  
9 stakeholders of the Hawaii milk production industry to establish  
10 recommendations for short- and long-term initiatives to help  
11 ensure the availability of fresh milk for fluid consumption in  
12 Hawaii.

13 Based upon the results of the engagements, the department  
14 of agriculture shall, together with the University of Hawaii,  
15 college of tropical agriculture and human resources, prepare a  
16 written report and strategic plan recommending short and long  
17 term initiatives to help ensure the availability of fresh milk  
18 for fluid consumption in Hawaii. The written report and  
19 strategic plan shall be submitted to the legislature no later  
20 than twenty days prior to the commencement of the 2009 regular  
21 session.





1 SECTION 5. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.  
3 SECTION 6. This Act shall take effect upon its approval.

APPROVED this 30 day of APR, 2008



GOVERNOR OF THE STATE OF HAWAII

