

4:12A-1 et al

LEGISLATIVE HISTORY CHECKLIST

NJSA: 4:12A-1 et al

(Milk Control Act - various amendments)

LAWS OF: 1983

CHAPTER: 344

Bill No: S3131

Sponsor(s): Foran and McManimon

Date Introduced: February 24, 1983

Committee: Assembly: Agriculture and Environment

Senate: Natural Resources and Agriculture

Amended during passage: YES

Amendments during passage denoted by asterisks.

Date of Passage: Assembly: July 11, 1983

Senate: May 23, 1983

Date of Approval: September 9, 1983

Following statements are attached if available:

Sponsor statement: YES

Attached: Assembly Amendments adopted 7/7/83 (with statement)

Committee statement: Assembly YES

Senate YES

Fiscal Note: NO

Veto Message: NO

Message on Signing: NO

Following were printed:

Reports: NO

Hearings: NO

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SENATE, No. 3131

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 24, 1983

By Senators FORAN and McMANIMON

Referred to Committee on Natural Resources and Agriculture

AN ACT to amend "An act to regulate and control the production, distribution and sale of milk as herein defined; to create a milk control board for such purposes; to prescribe the jurisdiction, duties and powers of said board; to require licenses of and establish fees to be paid by stores, milk dealers, processors and subdealers; *\*to regulate the use of milk cases;\** to provide methods for enforcement and penalties for violations thereof and declaring an emergency affecting the production, distribution and sale of milk as defined herein," approved July 15, 1941 (P. L. 1941, c. 274)\*, *as said title was amended by P. L. 1982, c. 216\** and repealing sections 2 and 3 of P. L. 1962, c. 181 (C. 4:12A-36.1 and 4:12A-36.2).

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. Section 1 of P. L. 1941, c. 274 (C. 4:12A-1) is amended to  
2 read as follows:

3 1. Words used in this act, unless otherwise expressly stated, or  
4 unless the context or subject matter otherwise requires, shall have  
5 the following meanings:

6 "Board." The milk control board.

7 "Director." The director of milk control.

8 "Milk dealer." Any person who sells or distributes milk, includ-  
9 ing on consignment or for the account of a producer, or who  
10 purchases milk from producers or other milk dealers, [as herein  
11 defined, and who, in addition thereto, pasteurizes in his own plant  
12 or bottles in his own plant for sale in this State to consumers or

**EXPLANATION**—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

\*—Senate committee amendments adopted April 25, 1983.  
\*—Assembly amendment adopted July 7, 1983.

13 stores or other milk dealers or processors, as herein defined,  
14 except for consumption on the premises of the producers.] *whether*  
15 *on behalf of himself or others or both, and includes a person who*  
16 *sells or delivers all milk to consumers or stores in the same con-*  
17 *tainers as those in which he purchases or acquires it from other*  
18 *milk dealers, [Any] any dairy cooperative association organized*  
19 *under any law of this or any other state and engaged in this State*  
20 *in the [handling] marketing of milk directly to stores and con-*  
21 *sumers in this State, [as hereinafter defined, is hereby declared to*  
22 *be a milk dealer within the meaning of this act as the director may*  
23 *determine] and includes persons referred to herein as processors*  
24 *or subdealers, but it does not include a store as hereinafter defined.*

25 Milk dealers as herein defined, may also purchase and distribute  
26 for storage or manufacture within or without this State.

27 ["Processor." Any person who produces or who purchases milk  
28 from producers or milk dealers, or both, and who sells only to or  
29 through subdealers, milk dealers or other processors and who in  
30 addition thereto, pasteurizes or handles, and bottles in a plant  
31 owned, operated or leased by said person for sale to or through  
32 subdealers, milk dealers or other processors.

33 "Subdealer." Any milk dealer who does not own, operate or  
34 lease a plant and does not pasteurize or bottle milk, but who pur-  
35 chases milk from a milk dealer or processor and sells or resells to  
36 a store or consumer, but the aforesaid definition shall not be  
37 deemed to include a store.]

38 "Market." Any municipality, incorporated or unincorporated,  
39 of this State, other than a county, or any group of such, or any  
40 portions thereof, designated by the board as a marketing area.

41 "Licensee." Any person licensed pursuant to this act.

42 "Milk." The natural product of a dairy animal or animals and  
43 includes fluid milk and cream, fresh, sour or storage, *lowfat milk*,  
44 *skimmed milk, flavored milk, any milk drink, buttermilk, yogurt,*  
45 *[ice cream mix,] and condensed or concentrated whole or skimmed*  
46 *milk, except when contained in hermetically sealed cans. [In each*  
47 *instance where quantity is referred to, the intent is to include its*  
48 *whole milk equivalent.]*

49 "Producer." Any person producing milk entirely for sale to a  
50 milk dealer [or processor] except for the milk produced for the  
51 use of himself and his family and the use of his employees and  
52 their families.

53 "Consumer." Any person, other than a milk dealer, store,  
54 [subdealer, processor] or producer, who purchases milk for con-  
55 sumption or use.

56 "Sanitary regulations." All laws enacted by the State of New  
 57 Jersey; ordinances and regulations enacted or adopted by munici-  
 58 palities, municipal boards of health, or municipal departments, or  
 59 officials exercising the powers and duties of local boards of health,  
 60 relating to the production, handling, transportation, distribution  
 61 and sale of milk from a health basis.

62 "Store." A grocery store, delicatessen, food market, hospital,  
 63 institution, hotel, restaurant, soda fountain, dairy products store,  
 64 *milk vending machine*, any governmental agency, roadside stand  
 65 and similar mercantile establishments.

1 2. Section 33 of P. L. 1941, c. 274 (C. 4:12A-33) is amended to  
 2 read as follows:

3 33. An application for a license to operate as a milk dealer  
 4 **[, processor, subdealer]** or store shall be made **[within 15 days**  
 5 **after this act takes effect or]** before any person shall commence  
 6 business as a milk dealer**[, processor, subdealer]** or store, and  
 7 annually thereafter **[on or before May 10 in each year for the**  
 8 **license year commencing July 1, and ending June 30 following]**.  
 9 *Every person holding a license on the effective date of this act*  
 10 *shall upon expiration of the license apply for renewal, but in order*  
 11 *to spread the renewal dates throughout the year the director may*  
 12 *issue licenses for a period of not less than three months nor more*  
 13 *than 15 months and for stores the fee for the period shall be pro-*  
 14 *portionately less or greater than the annual rates herein estab-*  
 15 *lished. Subsequent licenses shall be issued for a period of one year.*  
 16 The applicant shall state the nature of the business to be conducted,  
 17 the full name of the person applying for the license and, if the  
 18 applicant be a firm or association, the full name of each member,  
 19 and if a corporation the names and addresses of all officers and  
 20 directors and the name or names of the municipality or munici-  
 21 palities in which the business is to be conducted; that he has  
 22 complied with all the orders, rules and regulations of the prede-  
 23 cessor board and the director, and such other facts with respect  
 24 to the license as may be required by the said director. A license  
 25 shall be granted to the applicant by the director subject to the  
 26 provisions of this act. The original or a certified copy thereof shall  
 27 be conspicuously displayed by the licensee at its principal place of  
 28 business, and in each plant, store or sales branch delivery depot  
 29 in this State.

1 3. Section 36 of P. L. 1941, \***[chapter]**\* \*c.\* 274 (C. 4:12A-36)  
 2 is amended to read as follows:

3 36. Every person required by this act to be licensed shall pay a  
 4 yearly license fee as follows:

5 Store—each and every store selling milk shall pay a license fee  
6 ~~of \$10.00~~ based on average volume of milk sold during the pre-  
7 vious two months as follows:

- 8 \*~~Stores selling 1,000 quart equivalents or less per week . . . \$12.00;~~  
9 ~~Stores selling 1,001 quart equivalents or more per week . . . \$24.00;]~~\*  
9A \*Stores selling 500 quart equivalents or less per week . . . . . \$12.00  
9B Stores selling 501 to 1,500 quart equivalents per week . . . . . \$24.00  
9C Stores selling 1,501 to 3,000 quart equivalents per week . . . . . \$36.00  
9D Stores selling 3,001 quart equivalents or more per week . . . . . \$48.00\*

10 provided, however, that a store selling milk exclusively for con-  
11 sumption on the premises shall not be required to obtain a license  
12 nor pay a license fee; and provided, further, that a store selling  
13 only milk which is evaporated or condensed in hermetically sealed  
14 cans shall not be required to obtain a license or pay a license fee.

15 Any person applying for a license to engage in business as a  
16 store at a new location shall pay a fee of \$12.00 for the first year  
17 of operation, but any person acquiring an existing store shall pay  
18 a fee based upon the average volume of milk sold during the pre-  
19 vious two months in accordance with the store fee schedule above.

20 Milk dealers—~~where a milk dealer sold in the State of New~~  
21 Jersey during the 12 calendar months immediately preceding the  
22 period for which the license is applied or issued a monthly average  
23 quantity of milk.

- 24 (1) Not exceeding 2,500 pounds, a license fee of \$20.00;  
25 (2) Exceeding 2,500 pounds, but not exceeding 5,000 pounds, a  
26 license fee of \$30.00;  
27 (3) Exceeding 5,000 pounds, but not exceeding 25,000 pounds,  
28 a license fee of \$44.00;  
29 (4) Exceeding 25,000 pounds, but not exceeding 100,000 pounds,  
30 a license fee of \$154.00;  
31 (5) Exceeding 100,000 pounds, but not exceeding 200,000 pounds,  
32 a license fee of \$275.00;  
33 (6) Exceeding 200,000 pounds, but not exceeding 500,000 pounds,  
34 a license fee of \$520.00;  
35 (7) Exceeding 500,000 pounds, but not exceeding 1,000,000  
36 pounds, a license fee of \$780.00;  
37 (8) Exceeding 1,000,000 pounds, but not exceeding 2,000,000  
38 pounds, a license fee of \$1,300.00;  
39 (9) Exceeding 2,000,000 pounds, but not exceeding 5,000,000  
40 pounds, a license fee of \$1,820.00;  
41 (10) Exceeding 5,000,000 pounds, a license fee of \$2,080.00;]  
42 every milk dealer shall pay a fee of \$0.01 per hundredweight of milk  
43 sold for consumption within the State excluding dealer to dealer

44 sales; but a milk dealer processing milk for sale to other dealers  
45 shall pay a minimum fee of \$650.00 per year and a milk dealer  
46 selling to stores and consumers shall pay a minimum fee of \$30.00  
47 per year.

48 **【Where a】** A milk dealer **【is】** engaged in handling milk in the  
49 State of New Jersey, but selling milk only in another state or  
50 engaged only in manufacturing**【; he shall not be subject to the**  
51 **foregoing schedule, but】** shall pay a license fee of \$150.00 per year.  
52 *A milk dealer who during the year prior to the one for which the*  
53 *application is being made sold a quality of milk which would yield*  
54 *a fee of less than \$300.00 per year may pay his full fee at the*  
55 *beginning of the license year based upon the prior year's business.*  
56 *Milk dealers shall pay the fee by the fifteenth of each month for the*  
57 *previous month. Failure to pay the fee shall be the basis for the*  
58 *suspension or revocation of license or the assessment of penalty as*  
59 *herein provided for any other violations of this act. There shall*  
60 *be no refund except to correct a clerical error or where a license*  
61 *is applied for and the director declines to grant the license to the*  
62 *applicant.*

63 **【Processors—every processor shall pay a license fee of \$650.00.**  
64 **Subdealers—every subdealer shall pay a license fee of \$30.00**  
65 **for each route owned or operated at the commencement of the**  
66 **license period.**

67 It is the intent where the amount of license fee is to be deter-  
68 mined by the quantity of milk that the whole milk equivalent of  
69 milk in each of its forms as included in definition of milk in  
70 paragraph 1 of this act shall be used.

71 Any person applying for a license to engage in the business of a  
72 milk dealer or processor who has not been engaged in such business  
73 prior to the effective date of this act, upon filing application with  
74 the director to engage in such business, shall, in the case of  
75 applying for a license as a milk dealer or processor, deposit with  
76 the director \$100.00 in cash. This deposit shall be retained by the  
77 director until such time as the director is able to determine from  
78 the monthly reports of such applicant for license the proper fee  
79 to be charged such applicant in accordance with the schedules  
80 hereinbefore set forth, at which time any part of such deposit in  
81 excess of the license fee so determined shall be returned to the  
82 applicant.

83 The license fee shall accompany the application for a license;  
84 said application shall not be received or acted upon if it is not  
85 accompanied by the proper fee. Where a license is applied for and  
86 the director declines to grant the license to the applicant, the

87 license fee shall be charged and retained by the director only pro  
88 rata for so much of the license year as expired prior to the issuance  
89 of the order refusing the license. There shall be refund in such  
90 case where the applicant is a store, subdealer or milk dealer whose  
91 fee is not more than \$25.00.]

1 4. Sections 2 and 3 of P. L. 1962, c. 181 (C. 4:12A-36.1 and  
2 4:12A-36.2) are repealed.

1 5. This act shall take effect immediately *\*but shall be retroactive*  
2 *to July 1, 1983\**.

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## STATEMENT

This bill would amend the Milk Control Act by reviving certain definitions and licensing procedures contained in the law and by changing the structures for assessing fees.

Definitions for "milk dealers", "processors", and "subdealers" as contained in the present law were adopted more than four decades ago when the original legislation was enacted. During this time, the characteristics and operations of the milk industry have changed considerably. The changes in definitions contained in this bill are designed to reflect current conditions in the industry and to simplify the administrative procedure for issuing licenses. Also the changes in licensing procedures will spread the work load throughout the year for more efficient utilization of personnel.

Dairy industry regulatory programs have traditionally been funded by fees assessed against the industry. The New Jersey Milk Control Act was designed in this fashion, but changes in the structure of the dairy industry have resulted in decreases in fees collected. This bill will restore the program to a self-supporting status.

S 3131 (1983)



Assembly Amendments

to

*Fran*

ADOPTED

Senate Bill No. 3131 OCR

JUL 7 1983

Proposed by *WEIDEL*  
6/30/83

Amend:

Page	Sec.	Line
6	5	1

After "immediately" insert  
"but shall be retroactive to July 1, 1983"

STATEMENT

This amendment would make the fee schedule contained in the bill retroactive to July 1, 1983 so as to minimize fiscal dislocation which might result if the bill takes effect July 1, 1984.

ASSEMBLY AGRICULTURE AND ENVIRONMENT  
COMMITTEE

STATEMENT TO

**SENATE, No. 3131**

with Assembly committee amendments

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**STATE OF NEW JERSEY**

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DATED: JUNE 30, 1983

This bill would amend the Milk Control Act by reviving certain definitions and licensing procedures contained in the law and by changing the structures for assessing fees.

Definitions for "milk dealers," "processors," and "subdealers" as contained in the present law were adopted more than four decades ago when the original legislation was enacted. During this time, the characteristics and operations of the milk industry have changed considerably. The changes in definitions contained in this bill are designed to reflect current conditions in the industry and to simplify the administrative procedure for issuing licenses. Also the changes in licensing procedures will spread the work load throughout the year for more efficient utilization of personnel.

Dairy industry regulatory programs have traditionally been funded by fees assessed against the industry. The New Jersey Milk Control Act was designed in this fashion, but changes in the structure of the dairy industry have resulted in decreases in fees collected. This bill will restore the program to a self-supporting status.

The Department of Agriculture estimates that the amended fee schedule would yield \$497,000.00 from both milk dealer fees, which would be based on a fee of \$.01 per hundred weight of milk sold for consumption in the State, and from store license fees, which would be based on the number of quart equivalents sold per week, rather than the present \$10.00 flat fee.

SENATE NATURAL RESOURCES AND AGRICULTURE  
COMMITTEE

STATEMENT TO

**SENATE, No. 3131**

with Senate committee amendments

**STATE OF NEW JERSEY**

DATED: APRIL 25, 1983

This bill would amend the Milk Control Act by reviving certain definitions and licensing procedures contained in the law and by changing the structures for assessing fees.

Definitions for "milk dealers," "processors," and "subdealers" as contained in the present law were adopted more than four decades ago when the original legislation was enacted. During this time, the characteristics and operations of the milk industry have changed considerably. The changes in definitions contained in this bill are designed to reflect current conditions in the industry and to simplify the administrative procedure for issuing licenses. Also the changes in licensing procedures will spread the work load throughout the year for more efficient utilization of personnel.

Dairy industry regulatory programs have traditionally been funded by fees assessed against the industry. The New Jersey Milk Control Act was designed in this fashion, but changes in the structure of the dairy industry have resulted in decreases in fees collected. This bill will restore the program to a self-supporting status.

The committee amended the bill to update the annual license fees and thus help make the program self-supporting.