

4:12A-1 et al

LEGISLATIVE HISTORY CHECKLIST

NJSA 4:12A-1 et al "Milk Case Recovery Act"

LAWS 1982 CHAPTER 216

Bill No. S1410

Sponsor(s) Foran and McManimon

Date Introduced May 17, 1982

Committee: Assembly Agriculture and Environment

Senate Natural Resources and Agriculture

Amended during passage Yes ~~XXX~~ Amendments during passage denoted by asterisks

Date of Passage: Assembly November 15, 1982

Senate September 16, 1982

Date of approval December 29, 1982

Following statements are attached if available:

Sponsor statement	Yes	No
Committee Statement: Assembly	Yes	No
Senate	Yes	XXX
Fiscal Note	Yes	No
Veto Message	Yes	No
Message on signing	Yes	No

Following were printed:

Reports	Yes	No
Hearings	Yes	No

6/22/81

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12-29-82

[OFFICIAL COPY REPRINT]

SENATE, No. 1410

STATE OF NEW JERSEY

INTRODUCED MAY 17, 1982

By Senators FORAN and McMANIMON

Referred to Committee on Natural Resources and Agriculture

AN ACT to amend the title of "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 provide methods for enforcement and penalties for violations thereof and declaring an emergency affecting the production, distribution and sale of milk as defined herein," passed July 15, 1941 (P. L. 1941, c. 274), so that the same shall read "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," and to supplement said act.

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

1 1. The title of P. L. 1941, c. 274 (C. 4:12A-1 et seq.) is amended
2 to read as follows: An act to regulate and control the production,
3 distribution and sale of milk as herein defined; to create a milk
4 control board for such purposes; to prescribe the jurisdiction, duties
5 and powers of said board; to require licenses of and establish fees
6 to be paid by stores, milk dealers, processors and subdealers; to

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 June 24, 1982.**

7 *regulate the use of milk cases* to provide methods for enforcement
8 and penalties for violations thereof and declaring an emergency
9 affecting the production, distribution and sale of milk as defined
10 herein.

1 2. This act shall be known and may be cited as the "Milk Case
2 Recovery Act."

1 3. As used in this act:

2 a. "Milk case" means a rigid reusable milk container case includ-
3 ing wood, metal or plastic, which is used for packing and trans-
4 porting or delivering cartons, bottles, jugs or other packages of
5 milk and milk products by milk dealers, processors or subdealers,
6 and which the owner intends for return and reuse in the ordinary
7 course of his business.

8 b. "Owner" means the person whose name, registered trademark
9 or other business identification is clearly printed, embossed, in
10 scribed or otherwise marked on a milk case.

1 4. Any person who is engaged in receiving, ***[producing]*** **proc-*
2 *essing**, manufacturing, packing, canning, bottling, handling, or
3 selling milk or any products of milk in containers, cabinets, or other
4 dairy equipment which is marked or otherwise identified with the
5 name of the person or with any fictitious or other name or word
6 or with any mark or device whatsoever, may file with the Secretary
7 of Agriculture a description of the name or word, mark or device
8 which is so used.

9 The filing with the Secretary of Agriculture of the description of
10 the name or word, mark, or device constitutes a valid registration
11 of the mark **for the purposes of this act**.

1 5. Wholesale milk and milk product purchasers who, in the
2 normal course of milk distribution procedures, hold milk cases
3 for pickup by the owners or their representatives are exempt from
4 the provisions of this act.

1 6. It is unlawful for any person to:

2 a. Receive, take, store, buy, sell, dispose, use or otherwise possess
3 any milk case without the consent of the owner;

4 b. Refuse to return any milk case to the owner upon demand;

5 c. Deface, erase, obliterate, cover up or otherwise remove or
6 conceal any name, registered trademark or other business identifi-
7 cation of an owner of a milk case for the purpose of destroying
8 or removing from the milk case evidence of its ownership.

1 7. The using, buying, selling, possession, **destroying,** or de-
2 facing of a milk case by any person without the written consent
3 of the owner shall be accepted in a court of competent jurisdiction
4 as prima facie evidence of a violation of this act.

1 8. Any person who violates this act *~~commits a petty disorderly~~
2 ~~persons offense~~* *shall be subject to a fine of up to \$100.00 for the*
3 *illegal possession of up to nine milk cases and not less than \$100.00*
4 *nor more than \$500.00 or imprisonment for up to 30 days or both,*
5 *for the illegal possession of any greater number of milk cases*.*

1 9. An habitual violation of this act or of any rule or regulation
2 made pursuant to this act may be restrained by a court of competent
3 jurisdiction in an action brought for that purpose by the owner of
4 milk cases subject to the violations.

1 10. The Secretary of Agriculture may promulgate rules and regu-
2 lations necessary to enforce the provisions of this act.

1 11. This act shall take effect 60 days after enactment.

1 8. Any person who violates this act commits a petty disorderly
2 persons offense.

1 9. An habitual violation of this act or of any rule or regulation
2 made pursuant to this act may be restrained by a court of competent
3 jurisdiction in an action brought for that purpose by the owner of
4 milk cases subject to the violations.

1 10. The Secretary of Agriculture may promulgate rules and regu-
2 lations necessary to enforce the provisions of this act.

1 11. This act shall take effect 60 days after enactment.

STATEMENT

Modern milk marketing relies on reusable cases for wholesale delivery to stores. In recent years, these cases—frequently plastic and sometimes a combination of wood, metal and plastic—have been diverted from normal use by the millions.

In New Jersey alone, milk processing firms annually lose more than 750,000 such cases. Each case costs about \$5.00. This loss is estimated to add more than $2\frac{1}{4}\text{¢}$ to the price of a gallon of milk.

The problem is national in scope and a number of states have enacted laws providing for the identification and reclamation of such containers. In New Jersey, a milk processor may see scores of his cases on sale at a flea market or some other such place and be unable to readily act to reclaim what is legally his.

This bill would provide such a remedy and could save the milk industry and consuming public millions of dollars.

51410 (1982)

ASSEMBLY AGRICULTURE AND ENVIRONMENT
COMMITTEE

STATEMENT TO

SENATE, No. 1410

with Senate committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 25, 1982

Modern milk marketing relies on reusable cases for wholesale delivery to stores. In recent years, millions of these cases—frequently plastic—have been diverted from this use.

In New Jersey alone, milk processing firms claim an annual loss of more than 750,000 of these cases. Each case costs about \$5.00. This loss is estimated to add more than two and one-quarter cents to the price of a gallon of milk.

The problem is considered to be national in scope and a number of states have enacted laws providing for the identification and reclamation of these containers. In New Jersey, milk processors claim that they may see scores of their cases on sale at flea markets or some other such place of sale, and are unable to readily act to reclaim what is legally theirs.

In order to address this problem, this bill would establish a system of registration in which milk processors would file the identifying name, mark, word or device printed or enclosed on each case with the Secretary of Agriculture. The bill would also make it unlawful to obtain milk cases without the consent of the owner. Milk processors claim that such a remedy could save the milk industry and the consuming public millions of dollars.

The bill sets a fine of up to \$100.00 for the illegal possession of up to nine cases and a fine of between \$100.00 to \$500.00, with a possible imprisonment of up to 30 days, for the illegal possession of any greater number of cases.

SENATE NATURAL RESOURCES AND AGRICULTURE
COMMITTEE

STATEMENT TO

SENATE, No. 1410

with Senate committee amendments

STATE OF NEW JERSEY

DATED: JUNE 24, 1982

Modern milk marketing relies on reusable cases for wholesale delivery to stores. In recent years, these cases—frequently plastic and sometimes a combination of wood, metal and plastic—have been diverted from normal use by the millions.

In New Jersey alone, milk processing firms claim an annual loss of more than 750,000 of such cases. Each case costs about \$5.00. This loss is estimated to add more than 2¼¢ to the price of a gallon of milk.

The problem is considered to be national in scope and a number of states have enacted laws providing for the identification and reclamation of such containers. In New Jersey, milk processors claim that they may see scores of their cases on sale at a flea market or some other such place and be unable to readily act to reclaim what is legally theirs.

In order to address this problem, this bill establishes a system of registration in which milk processors file their identifying name, mark, word or device with the Secretary of Agriculture and provides that it shall be unlawful to obtain milk cases without the consent of the owner. Milk processors claim that such a remedy could save the milk industry and the consuming public millions of dollars.

The committee, in addition to making several technical amendments, amended the penalty section of the bill by setting a fine of up to \$100.00 for the illegal possession of up to 9 cases and a fine of between \$100.00 to \$500.00, with a possible imprisonment of up to 30 days, for the illegal possession of any greater number of cases.

A-1804, sponsored by Assemblyman Robert J. Meyer, R-Burlington, which validates bond referenda which did not use the most current form for absentee ballots because of recent changes in the Absentee Voting Law, providing that no action, suit or proceeding has been brought to protest their validity.

A-393, sponsored by Assemblyman (now Senator) William L. Gormley, R-Atlantic, which upgrades the offense of selling obscene material to a person 18 years old or older from a disorderly persons offense to a fourth degree crime.

A-834, sponsored by Assemblyman Walter M.D. Kern, R-Bergen, which allows fingerprinting of persons charged with shoplifting or convicted of any other indictable offense where identity is in question. Proper identification of shoplifters is needed because the law provides for graduated sentences for subsequent offenses.

A-878, sponsored by Assemblywoman Maureen B. Ogden, R-Essex, which increases the fines levied against owners and operators of trucks registered in another state but used in intrastate commerce in New Jersey. The fine for illegally registered trucks is \$100. This bill increases the fine to an amount equal to the cost of registering the truck in New Jersey, thus removing incentives for registering a truck in another state with lower registration fees.

S-1410, sponsored by Senator Walter E. Foran, R-Hunterdon, which establishes a registration system for reuseable milk cases and sets a \$500 fine for violation of the law. Milk processors contend that loss of reuseable plastic milk cases, which cost about \$5 each, add about 2.25 cents to the price of a gallon of milk. This bill establishes a registration system whereby processors can file their name and identifying mark with the Department of Agriculture. The bill makes possession of the cases without the written consent of the owner prima facie evidence of a violation of this law. Milk industry analysis estimate the loss of plastic cases costs the industry more than \$90 million per year nationally. The cases are used for everything from record holders to flower pot holders. By those who acquire them.

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