

THE FOLLOWING IS A SUMMARY OF

“THE FEDERAL MILK MARKETING IMPROVEMENT ACT OF 2011”

THE CASEY BILL: S - 1640

- 1.) ALL milk produced in the United States will be priced on the national average cost of producing milk on the dairy farms.
- 2.) ALL milk used for fluid purposes will be classified as Class I.
- 3.) ALL milk used for manufacturing purposes will be classified as
Class II.
- 4.) The Class II price will be the national average cost of production. This price will be uniform in all federal and state orders as well as unregulated areas. The Class I price will be determined by using the Class II price plus the existing Class I differentials that are currently in place in each federal order. The state of California and other unregulated areas will be assigned a Class I differential by the US Secretary of Agriculture.
- 5.) ALL Federal and State Milk Marketing Orders will remain intact. Each Milk Marketing Order will be responsible for determining the component value of milk.
- 6.) This Proposal prohibits any cost of operating milk manufacturing plants (commonly called “Make Allowance”) to be levied on dairy farmers.
- 7.) The U. S. Secretary of Agriculture will adjust the value of milk four times a year.
- 8.) This Proposal calls for an inventory supply management program. The program is aimed at preventing a build-up of domestic milk products and prevents foreign milk products from destroying dairy farmer prices.
- 9.) The inventory management program cannot be implemented unless the exports of dairy products exceed the imports of dairy products.
- 10.) ALL dairy farmers will fund the inventory management program. If and only if the program is necessary, then all dairy farmers will receive a lower price on up to 5% of their production. This price will be half of the value of manufactured milk. However, the dairy farmers will receive the correct price on 95% of their milk. Please remember if the inventory management program is not implemented, then the dairy farmers will receive the full price. Also, the U. S. Secretary of Agriculture may decide that only a reduction of one or two percent of total production may be sufficient.

11.) If this reduction is insufficient to reduce excess production, the Secretary shall reduce the price for producers who have increased production over the average production of the three (3) previous years. This reduction only applies to the volume of increased production.

12.) A new producer may produce milk up to 3 million pounds in the Milk Marketing Order he is regulated under before he is subject to the provisions of the inventory management program described in point "11." This relates only to his first year.

13.) The intent of this Proposal is not to tell dairy farmers how much milk they can produce. However, over-production will be addressed in the inventory management program.

14.) An inventory management program is necessary to prevent a small amount of milk from forcing \$20.00 per hundredweight milk down to \$12.00 per cwt.

15.) The beauty of this Proposal is that this program will be farmer-funded and will NOT cost the USDA any direct cost. The dairy farmer's reward for funding the program (if necessary) is for the first time the dairy farmers will receive fair/stable prices for his/her efforts.

16.) Rejection of proposed FMMO amendments will not result in the elimination of the FMMO.

17.) This Proposal allows milk hauling charges to be levied on dairy farmers. The cost of production figures by the USDA pick up the hauling charges. Again, the dairy farmers' hauling costs are in the cost of production figures.

18.) This Proposal mandates that the Secretary of Agriculture must notify both the Senate and the House Agriculture Committees before he can implement the supply management provision and/or before he can make any adjustment to the milk price paid to dairy farmers.

S.1640 -- Federal Milk Marketing Improvement Act of 2011 (Introduced in Senate - IS)

S 1640 IS

112th CONGRESS
1st Session
S. 1640

To amend the Agricultural Adjustment Act to require the Secretary of Agriculture to determine the price of all milk used for manufactured purposes, which shall be classified as Class II milk, by using the national average cost of production, and for other purposes.

IN THE SENATE OF THE UNITED STATES

October 3, 2011

Mr. CASEY introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Agricultural Adjustment Act to require the Secretary of Agriculture to determine the price of all milk used for manufactured purposes, which shall be classified as Class II milk, by using the national average cost of production, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Federal Milk Marketing Improvement Act of 2011'.

SEC. 2. PRICES RECEIVED FOR MILK UNDER MILK MARKETING ORDERS.

Section 8c(5)(B) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)(B)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended--

- (1) in the first clauses (i) and (ii), by inserting ` (based on the blended price of all milk covered by the order)' after ` uniform prices' each place it appears; and
- (2) in clause (b) of the matter following the first clause (ii), by inserting ` and the component value' after ` quality'.

SEC. 3. CLASS II MILK PRICING.

Section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by adding at the end the following:

` (P) CLASS II MILK PRICING-

` (i) DEFINITION OF NATIONAL AVERAGE COST OF PRODUCTION- In this subparagraph, the term ` national average cost of production' means the amount, as determined by the Economic Research Service of the Department of Agriculture, equal to the difference between--

` (I) the national average of the operating cost and the allocated overhead cost of producing all milk in the 48 contiguous States; and

` (II) the opportunity cost for unpaid labor of producing all milk in the 48 contiguous States.

` (ii) MINIMUM PRICE- The Secretary shall base the minimum price for Class II milk on the national average cost of production.

` (iii) SURVEY- For purposes of determining the national average cost of production under clause (i), the Secretary shall survey dairy producers and associations of dairy producers subject to Federal and State milk marketing orders and in all unregulated areas applicable to all milk.

` (iv) PRICE ANNOUNCEMENT-

` (I) IN GENERAL- Not later than November 1 of each calendar year, the Secretary shall announce the minimum price for Class II milk for the next calendar year, as determined in accordance with clause (ii).

` (II) ADJUSTMENTS- Using the most currently available national average cost of production, the Secretary shall adjust the price announced under subclause (I) for a calendar year on April 1, July 1, and October 1 of the calendar year.

` (III) NOTIFICATION- Not later than 15 days prior to the effective date of a price adjustment under this clause, the Secretary shall submit notification of the adjusted price to--

- ˘ (aa) the Committee on Agriculture of the House of Representatives;
- ˘ (bb) the Committee on Agriculture, Nutrition, and Forestry of the Senate;
- ˘ (cc) each administrator of a Federal milk marketing order;
- ˘ (dd) each State agency that oversees the pricing of milk paid to dairy producers;
and
- ˘ (ee) other applicable Federal and State agencies.

- ˘ (IV) PUBLICATION- After receiving notification under subclause (III)(cc), each administrator of a Federal milk marketing order shall publish the decision of the Secretary in all bulletins and publications of the Federal milk marketing order.

- ˘ (v) BASIC FORMULA PRICE-

- ˘ (I) IN GENERAL- The Secretary shall use the Class II milk price announced under clause (iv) as the basic formula price for all Federal and State milk marketing orders and all unregulated milk production areas.

- ˘ (II) CLASS I MILK-

- ˘ (aa) IN GENERAL- The price of Class I milk in all Federal and State milk marketing orders and all unregulated milk production areas shall be equal to--

- ˘ (AA) the basic formula price under subclause (I); plus

- ˘ (BB) the applicable Class I milk differential under Federal and State milk marketing orders.

- ˘ (bb) UNREGULATED AREAS- For purposes of item (aa)(BB), the Secretary shall assign comparable Class I milk differentials to each unregulated area.'

SEC. 4. INVENTORY MANAGEMENT PROGRAM.

Section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, as amended by section 3, is amended by adding at the end the following:

- ˘ (Q) INVENTORY MANAGEMENT PROGRAM-

- ˘ (i) MILK PRODUCTION TOTALS- Not later than February 1 of each calendar year, the Secretary shall determine the total quantity of all milk produced by each dairy producer or farming operation during the 3 preceding calendar years.

^ (ii) PRODUCTION BASE-

^ (I) IN GENERAL- The starting production base of a dairy producer shall be the average quantity of milk produced by the dairy producer during the 3 calendar years immediately preceding the date of enactment of this subparagraph.

^ (II) ADJUSTMENT- The production base of a dairy producer shall be adjusted on January 1st of each year.

^ (III) LIMITATION- The production base of a dairy producer shall be based on the dairy producer, not the farming operation, and may not be sold, transferred, bartered, or donated.

^ (IV) NEW DAIRY PRODUCER EXCEPTION- A new dairy producer, as defined by the Secretary, shall--

^ (aa) during the 1-year period beginning on the date on which the new dairy producer commences operation, be exempt from any applicable price reduction relating to the first 3,000,000 pounds of milk produced by the new dairy producer;

^ (bb) in the case of any milk produced in excess of 3,000,000 pounds during that 1-year period, be subject to each price reduction described in clauses (vi) and (vii); and

^ (cc) after that 1-year period, be subject to each price reduction that applies to existing dairy producers.

^ (iii) ESTIMATION OF ANNUAL MILK PRODUCTION AND DOMESTIC CONSUMPTION- Not later than November 1 of each calendar year and taking into consideration the import projections and export projections for all milk products, the Secretary shall estimate the quantity of all milk to be produced in the 48 contiguous States and marketed by dairy producers for commercial use during the next 12 months.

^ (iv) IDENTIFICATION AND DETERMINATION OF DAIRY PRODUCTS-

^ (I) IN GENERAL- Not less frequently than once each quarter, the Secretary shall--

^ (aa) identify all dairy products (including cheeses, curds, butter, butterfat, butter oil, buttermilk, anhydrous milk fat, dairy spreads, milk, cream, concentrated milk, condensed milk, nonfat dry milk powder, whole milk powder, skim milk powder, all other forms of powdered milk, yogurt, ice cream, whey, whey powder, dried whey, whey protein concentrate, all other forms of whey products, milk protein concentrate, milk protein isolate, casein, caseinates, lactose, food preps containing milk, and milk chocolate) imported into, or exported from, the United States; and

` (bb) determine the quantity of raw milk contained in each such product.

` (II) INCLUSIONS- In identifying dairy products under subclause (I)(aa), the Secretary shall include any current or projected future imports or exports of a product used for dairy, a dairy substitute, or ingredient, including any product that does not have the status of `generally recognized as safe', as determined by the Commissioner of Food and Drugs.

` (v) EXCESS PRODUCTION DETERMINATION- Not more than once every 2 months, if the Secretary, acting through the Commodity Credit Corporation, has purchased the maximum quantity of milk and milk products as required by law to administer programs including child nutrition programs (as defined in section 25(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769f(b)), feeding programs administered by the Secretary of Defense, institutional programs, and any other mandated Federal food or feeding programs, the Secretary shall determine whether an excess quantity of milk and milk products is being produced for the national domestic market.

` (vi) REDUCTION IN PRICE RECEIVED-

` (I) IN GENERAL- Subject to subclauses (II), (IV), and (V), if the Secretary determines under clause (v) that there is excess production, the Secretary shall provide for a reduction in the price received by all dairy producers for not more than 5 percent of all milk produced in the 48 contiguous States and marketed by dairy producers for commercial use.

` (II) NOTIFICATION- Not later than 15 days prior to the implementation of a reduction in price in accordance with subclause (I), the Secretary shall submit notification of, and justification for, the reduction in price to--

` (aa) the Committee on Agriculture of the House of Representatives;

` (bb) the Committee on Agriculture, Nutrition, and Forestry of the Senate;

` (cc) each administrator of a Federal milk marketing order;

` (dd) each State agency that oversees the pricing of milk paid to dairy producers;
and

` (ee) other applicable Federal and State agencies.

` (III) PUBLICATION- After receiving notification under subclause (II)(cc), each administrator of a Federal milk marketing order shall publish the decision of the Secretary in all bulletins and publications of the Federal milk marketing order.

` (IV) LIMITATION- The Secretary shall not provide for a reduction in the price received by a dairy producer under subclause (I) unless the Secretary determines under this subparagraph that there exists a positive trade balance in dairy products that are imported into, or exported from, the United States, based on--

` (aa) dollar value; and

` (bb) the quantity of milk represented by imports and exports, as determined under this subparagraph.

` (V) AMOUNT- The amount of the reduction under subclause (I) in the price received by dairy producers shall not exceed 1/2 the minimum price of Class II milk.

` (vii) ADDITIONAL REDUCTION-

` (I) IN GENERAL- If the Secretary determines that the reduction described in clause (vi) is insufficient to reduce excess production, subject to subclauses (II) and (III) and clause (ii)(IV), the Secretary shall reduce the price received by any dairy producer or farming operation that has increased the production of all milk in a calendar quarter, as compared to the average quantity of milk produced in the corresponding calendar quarter in the previous 3 years.

` (II) APPLICATION- A reduction in price under subclause (I) shall apply only to the quantity of milk produced in excess of the average quantity of milk produced in the corresponding calendar quarters in the previous 3 years.

` (III) NOTIFICATION- Not later than 15 days prior to the implementation of a reduction in price in accordance with subclause (I), the Secretary shall submit notification of, and justification for, the reduction in price to--

` (aa) the Committee on Agriculture of the House of Representatives;

` (bb) the Committee on Agriculture, Nutrition, and Forestry of the Senate;

- ` (cc) each administrator of a Federal milk marketing order;
- ` (dd) each State agency that oversees the pricing of milk paid to dairy producers;
and
- ` (ee) other applicable Federal and State agencies.

- ` (IV) PUBLICATION- After receiving notification under subclause (III)(cc), each administrator of a Federal milk marketing order shall publish the decision of the Secretary in all bulletins and publications of the Federal milk marketing order.

- ` (viii) AMOUNTS DERIVED FROM REDUCTION IN PRICES PAID TO DAIRY PRODUCERS-

- ` (I) IN GENERAL- Not later than 30 days after the end of each quarter, the Secretary shall pay to the special dairy producer account established under subclause (II) any amounts derived from a reduction in milk prices paid to dairy producers under clauses (vi) and (vii).

- ` (II) SPECIAL DAIRY PRODUCER ACCOUNT- The Commodity Credit Corporation shall establish a special dairy producer account in which amounts described in subclause (I) shall be credited.

- ` (ix) APPEALS-

- ` (I) IN GENERAL- A dairy producer subject to an additional reduction under clause (vii) may appeal to the Federal or State milk marketing administrator to provide evidence that the dairy producer did not increase production in the calendar year that the reduction was in effect when compared to the average quantity of milk produced during the 3 previous years.

- ` (II) RETURN OF AMOUNTS- If a dairy producer proves that the dairy producer did not increase total production for the effective calendar year, the Secretary shall return to the dairy producer any amounts collected for any overproduction of any quarter of the affected year.

- ` (III) SUBMISSION OF APPEAL- A dairy producer that ships to an unregulated milk handler may submit any appeal of the dairy producer to the Secretary or to the designated representative of the Secretary.

- ` (x) EXTRAORDINARY CIRCUMSTANCES- In deciding an appeal submitted by a dairy producer under clause (ix), a Federal or State milk marketing administrator (or, in the case of an appeal under clause (ix)(III), the

Secretary or the designated representative of the Secretary) shall take into consideration production losses due to, at a minimum, fire, severe weather conditions, or severe disease outbreaks.

` (xi) COLLECTION- Except as provided in clause (xii), reductions in price required under clause (vi) or (vii) shall be collected by Federal and State milk marketing administrators and timely remitted to the Commodity Credit Corporation to offset the cost of purchasing excess milk products.

` (xii) COLLECTION IN UNREGULATED AREAS- Reductions in price required for unregulated areas under subclause (IV) or (VI) shall be collected by the Secretary and timely remitted to the Commodity Credit Corporation to offset the cost of purchasing excess milk products.

` (R) PROHIBITION ON CERTAIN CHARGES- In carrying out this Act, the Secretary shall not impose charges on dairy producers for the cost of the conversion of raw milk to manufactured products.

` (S) RESPONSIBILITIES OF MILK PURCHASING HANDLERS- A milk handler that purchases milk from a dairy producer shall assume title for the milk at the time at which the milk is pumped into a milk truck provided by or otherwise delivered to the milk handler.

` (T) APPLICABILITY- Subparagraphs (P) through (S) apply to all dairy producers and handlers of milk in the 48 contiguous States.'.

SEC. 5. AMENDMENTS TO FEDERAL MILK MARKETING ORDERS.

Section 8c(17) of the Agricultural Adjustment Act (7 U.S.C. 608c(17)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by adding at the end the following:

` (H) ORDERS COVERING MILK AND MILK PRODUCTS- In the case of an order covering milk or milk products, disapproval of an amendment to the order shall not be considered to be disapproval of--

` (i) the order; or

` (ii) other terms of the order.'.