

Dairy Market Enhancement Act of 2000 (Enrolled Bill)

--S.2773--

One Hundred Sixth Congress

of the

United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Monday,
the twenty-fourth day of January, two thousand

An Act

To amend the Agricultural Marketing Act of 1946 to enhance dairy markets through dairy product mandatory reporting, 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 'Dairy Market Enhancement Act of 2000'.

SEC. 2. DAIRY PRODUCT MANDATORY REPORTING.

The Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.) is amended by adding at the end the following:

'Subtitle C--Dairy Product Mandatory Reporting

'SEC. 271. PURPOSE.

'The purpose of this subtitle is to establish a program of information regarding the marketing of dairy products that--

'(1) provides information that can be readily understood by producers and other market participants, including information with respect to prices, quantities sold, and inventories of dairy products;

'(2) improves the price and supply reporting services of the Department of Agriculture; and

'(3) encourages competition in the marketplace for dairy products.

'SEC. 272. DEFINITIONS.

'In this subtitle:

'(1) **DAIRY PRODUCTS-** The term 'dairy products' means manufactured dairy products that are used by the Secretary to establish minimum prices for Class III and Class IV milk under a Federal milk marketing order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

'(2) **MANUFACTURER-** The term 'manufacturer' means any person engaged in the

business of buying milk in commerce for the purpose of manufacturing dairy products.

`(3) SECRETARY- The term `Secretary' means the Secretary of Agriculture.

`SEC. 273. MANDATORY REPORTING FOR DAIRY PRODUCTS.

`(a) ESTABLISHMENT- The Secretary shall establish a program of mandatory dairy product information reporting that will--

- `(1) provide timely, accurate, and reliable market information;
- `(2) facilitate more informed marketing decisions; and
- `(3) promote competition in the dairy product manufacturing industry.

`(b) REQUIREMENTS-

`(1) IN GENERAL- In establishing the program, the Secretary shall only--

- `(A)(i) subject to the conditions described in paragraph (2), require each manufacturer to report to the Secretary information concerning the price, quantity, and moisture content of dairy products sold by the manufacturer; and
- `(ii) modify the format used to provide the information on the day before the date of enactment of this subtitle to ensure that the information can be readily understood by market participants; and
- `(B) require each manufacturer and other person storing dairy products to report to the Secretary, at a periodic interval determined by the Secretary, information on the quantity of dairy products stored.

`(2) CONDITIONS- The conditions referred to in paragraph (1)(A)(i) are that--

- `(A) the information referred to in paragraph (1)(A)(i) is required only with respect to those package sizes actually used to establish minimum prices for Class III or Class IV milk under a Federal milk marketing order;
- `(B) the information referred to in paragraph (1)(A)(i) is required only to the extent that the information is actually used to establish minimum prices for Class III or Class IV milk under a Federal milk marketing order;
- `(C) the frequency of the required reporting under paragraph (1)(A)(i) does not exceed the frequency used to establish minimum prices for Class III or Class IV milk under a Federal milk marketing order; and
- `(D) the Secretary may exempt from all reporting requirements any manufacturer that processes and markets less than 1,000,000 pounds of dairy products per year.

`(c) ADMINISTRATION-

`(1) IN GENERAL- The Secretary shall promulgate such regulations as are necessary to ensure compliance with, and otherwise carry out, this subtitle.

`(2) CONFIDENTIALITY-

- `(A) IN GENERAL- Except as otherwise directed by the Secretary or the Attorney General for enforcement purposes, no officer, employee, or agent of

the United States shall make available to the public information, statistics, or documents obtained from or submitted by any person under this subtitle other than in a manner that ensures that confidentiality is preserved regarding the identity of persons, including parties to a contract, and proprietary business information.

`(B) RELATION TO OTHER REQUIREMENTS- Notwithstanding any other provision of law, no facts or information obtained under this subtitle shall be disclosed in accordance with section 552 of title 5, United States Code.

`(3) VERIFICATION- The Secretary shall take such actions as the Secretary considers necessary to verify the accuracy of the information submitted or reported under this subtitle.

`(4) ENFORCEMENT-

`(A) UNLAWFUL ACT- It shall be unlawful and a violation of this subtitle for any person subject to this subtitle to willfully fail or refuse to provide, or delay the timely reporting of, accurate information to the Secretary in accordance with this subtitle.

`(B) ORDER- After providing notice and an opportunity for a hearing to affected persons, the Secretary may issue an order against any person to cease and desist from continuing any violation of this subtitle.

`(C) APPEAL-

`(i) IN GENERAL- The order of the Secretary under subparagraph (B) shall be final and conclusive unless an affected person files an appeal of the order of the Secretary in United States district court not later than 30 days after the date of the issuance of the order.

`(ii) FINDINGS- A finding of the Secretary under this paragraph shall be set aside only if the finding is found to be unsupported by substantial evidence.

`(D) NONCOMPLIANCE WITH ORDER-

`(i) IN GENERAL- If a person subject to this subtitle fails to obey an order issued under this paragraph after the order has become final and unappealable, or after the appropriate United States district court has entered a final judgment in favor of the Secretary, the United States may apply to the appropriate United States district court for enforcement of the order.

`(ii) ENFORCEMENT- If the court determines that the order was lawfully made and duly served and that the person violated the order, the court shall enforce the order.

`(iii) CIVIL PENALTY- If the court finds that the person violated the order, the person shall be subject to a civil penalty of not more than \$10,000 for each offense.

`(5) FEES- The Secretary shall not charge or assess a user fee, transaction fee, service charge, assessment, reimbursement fee, or any other fee under this subtitle for--

`(A) the submission or reporting of information;

`(B) the receipt or availability of, or access to, published reports or information; or

`(C) any other activity required under this subtitle.

`(6) RECORDKEEPING- Each person required to report information to the Secretary under this subtitle shall maintain, and make available to the Secretary, on request, original contracts, agreements, receipts, and other records associated with the sale or storage of any dairy products during the 2-year period beginning on the date of the creation of the records.

`(d) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated such sums as are necessary to carry out this section.'

Speaker of the House of Representatives.

Vice President of the United States and

President of the Senate.