

ACT 65

H.B. NO. 177

A Bill for an Act Relating to Milk Control.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 157-1, Hawaii Revised Statutes, is amended by amending the definition of "milk" to read:

"Milk" is the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows, which contains not less than 8.25 per cent milk solids-not-fat and not less than 3.25 per cent milkfat. For the purpose of milk control, "milk" is any product, containing milk solids, normally produced or marketed through the channels of the fluid milk trade and includes raw milk, pasteurized milk, cream, buttermilk, flavored milk, recombined or reconstituted milk, filled milk, and sterilized milk. "Milk" shall not include butter, cheese, ice cream, or condensed or evaporated milk contained in hermetically sealed cans."

SECTION 2. Section 157-13, Hawaii Revised Statutes, is amended to read:

"Sec. 157-13 General powers. The department of agriculture through its board is hereby vested with the following powers:

- (1) To regulate and supervise in a milk shed the production, transportation, processing, storage, distribution, and delivery of milk, the establishment of quotas and the setting of minimum prices to be paid to producers by producer-distributors and distributors; provided that nothing contained in this chapter shall be construed to abrogate or

affect the status, force or operation of any provision of the laws on public utilities, public health, expenditure of public funds or any local health ordinance or health regulation.

- (2) To investigate all matters in a milk shed pertaining to the production, transportation, processing, storage, distribution, and delivery of milk, and the establishment of quotas and the setting of minimum prices to be paid to producers by producer-distributors and distributors; to subpoena producers, producer-distributors and distributors, their records, books and accounts, and any other person from whom information may be desired to carry out the purpose and intent of this chapter; and by leave of a circuit court, to order the taking of depositions of witnesses absent from the State. Any authorized employee may sign and issue subpoenas and may administer oaths to witnesses and conduct hearings and investigations. In case of failure of any person to comply with any subpoena issued under authority of this chapter, or the refusal of a witness to testify to any matter regarding which he may be lawfully interrogated, the judge of the district court of the circuit in which the person resides or of the circuit in which the person may be personally served, on application of the board or its authorized representatives, shall compel obedience, as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein.
- (3) To assist all industry-wide programs pertaining to the production, transportation, processing, storage, distribution, and delivery of milk, feed, supplies, animals, and other related agricultural commodities. Such program may include advertising, feed storage and ensilage programs, heifer replacement program, agricultural park programs, relocation of dairies, and other related programs that would make the milk shed more viable, thereby assuring the production of an adequate supply of wholesome milk for the consumer.
- (4) To control the intrastate shipment of milk including shipment of milk between counties.
- (5) To make and enforce all rules and regulations and all orders necessary to carry out this chapter.

The operation and effect of any provision of this chapter conferring a general power shall not be impaired or qualified by the granting of a specific power or powers."

SECTION 3. Section 157-16, Hawaii Revised Statutes, is amended to read:

"Sec. 157-16 Divulging of information. No person obtaining any information pursuant to sections 157-14 and 157-15 shall divulge the information except as may be necessary or proper to administer and enforce this chapter or as the public interest may require."

SECTION 4. Section 157-22, Hawaii Revised Statutes, is amended to read:

"Sec. 157-22 Application for license and payment of fee. An applicant for an original or renewal license to operate as a producer, producer-distributor, or distributor shall file an application upon a form prepared by the board of

agriculture, containing such information which the board deems necessary for the administration of this chapter. The board shall establish a reasonable application fee for an original or renewal license which the applicant shall remit when application is filed. An agricultural cooperative all of whose producer-members have complied with the licensing provision of this chapter shall be exempt from the payment of the application fee.

The license year shall be from July 1 to the following June 30. All applications for renewal of licenses must be duly made at least thirty days before the commencement of the license year."

SECTION 5. Section 157-23, Hawaii Revised Statutes, is amended to read:

"Sec. 157-23 License fee. In order to meet the expenditures necessary to administer this chapter, the board of agriculture shall establish license fees to be paid by producers, producer-distributors and distributors. In determining these fees, the board shall, at least thirty days before the new license year begins:

- (1) Project the reasonable expenditures necessary to administer the chapter for the license year;
- (2) Project the amount to be paid by applicants for original or renewal licenses for the license year;
- (3) Estimate the total volume of milk to be produced and processed for the license year;
- (4) Using (1), (2) and (3) above, establish a reasonable rate per hundred-weight or other unit as determined by the board; and
- (5) Collect such fees monthly, or at such other intervals as may be determined by the board, during the license year based on actual milk produced and processed.

To facilitate the collection of license fees, the board may require a producer-distributor or distributor to withhold from any payment owing to any producer a part or all of the license fee due under this chapter by such producer. For any such withholding required by the board, the producer-distributor or distributor shall be paid a reasonable fee by the board. The amount of the fee shall be set by the board. An agricultural cooperative all of whose members have complied with the licensing provisions of this chapter shall be exempt from the payment of the license fee."

SECTION 6. Section 157-28, Hawaii Revised Statutes, is amended to read:

"Sec. 157-28 Disposition of license and application fees. All moneys received by the board of agriculture as application fees and for licenses or otherwise shall be deposited in the general fund."

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

SECTION 8. This Act shall take effect as of July 1 following the date of its approval.

(Approved May 9, 1977.)

*Edited accordingly.