

NORTH CAROLINA GENERAL ASSEMBLY  
1971 SESSION

CHAPTER 779  
SENATE BILL 643

AN ACT TO REWRITE THE MILK COMMISSION LAW (G.S. 106-266.6 ET SEQ.), TO PROVIDE FOR A MAJORITY OF PUBLIC MEMBERS ON THE COMMISSION, TO PROVIDE FOR APPEALS AS FROM OTHER STATE ADMINISTRATIVE AGENCIES, AND TO CLAIRFY THE POWERS AND DUTIES OF THE COMMISSION.

Whereas, in past years the majority of the State Milk Commission has been composed of citizens who are directly involved in the production or sale of milk, and it is the sense of the General Assembly that the Commission should be reorganized so that a majority will be without any direct interest in the production or sale of milk, and the General Assembly desires to provide for appeals as from other administrative agencies, and to further clarify the duties and powers of the Commission in order that the public interest will be better served and the confidence of the people in this Commission and in its regulation of this vital industry will be enhanced; and

Whereas, milk is a primary and necessary food for the citizens of the State, and it is necessary and in the public interest that there shall be constantly available a uniform and adequate supply of wholesome milk, cream and other dairy products; and

Whereas, it is vital to the public health and welfare of the people of the State that the production, transportation, processing, storage, distribution and sale of milk shall be carried on in a fair, just and equitable manner with purity of content, and the milk industry is a business or industry affecting the public health and interest; that it is necessary for the safety, health and welfare of the people of the State that this industry be subjected to some governmental restrictions, regulations, and methods of inspection; that it is necessary to suppress unfair, unjust and destructive trade practices in the production, marketing and distribution of milk which tend to create a hazardous and dangerous condition with reference to the health and welfare of the people of the State; and

Whereas, those milk distributors who deliver to homes and some retail stores can be and have been subjected to unfair and ruinous competition by certain retail grocery establishments who use milk as a "loss leader" and sell it well below cost in order to lure the public into their store (since milk constitutes only one of thousands of items which they sell and is a very small percent of their total sales) and whereas, many milk distributors would face bankruptcy if they attempted to meet such below cost prices since milk constitutes a very large per cent of their total sales, and the exploitation by retailers of milk as a "loss leader" for any extended period of time would inevitably tend towards the elimination of a number of milk distributors as well as milk producers and would tend to lead towards monopoly of this vital industry by a few giant firms (which fact has been demonstrated in neighboring states to the south), and such is not in the public interest; and

Whereas, it has further been shown that health regulations and sanitary rules alone are insufficient to safeguard and protect the citizens of the State from future inadequacy of supply of this necessary commodity, and it is therefore necessary to encourage production by the best-known methods, orderly and fair marketing of this necessary commodity which is perishable in nature, easily contaminated with harmful bacteria and cannot be stored for a great length of time, and the facts set forth in this preamble (and in the preamble to S.B. 263, Ch.

1338, of Session Laws 1953 which is incorporated herein by reference) are declared to be matters of legislative finding and determination; Now, therefore,

The General Assembly of North Carolina enacts:

**Section 1.** Article 28B of Chapter 106 of the General Statutes entitled "Regulation of Production, Distribution, etc., of Milk and Cream" is rewritten to read as follows:

"§ 106-266.6. **Definitions.** — As used in this Article, unless otherwise stated and unless the context or subject matter clearly indicates otherwise:

'Affiliate' means any person and/or subsidiary thereof, who has, either directly or indirectly, actual control or legal control over a distributor, whether by stock ownership or any other manner.

'Books and records' means books, records, accounts, contracts, memoranda, documents, papers, correspondence, or other data, pertaining to the business of the person- in question.

'Commission' means the North Carolina Milk Commission created by this Article.

'Distributor' or 'subdistributor' means any of the following persons engaged in the business of distributing, marketing, or in any manner handling fluid milk, in whole or in part, in fluid form for consumption in the State of North Carolina, but shall not mean any distributor who sells twenty-five (25) gallons or less of milk per day which is produced on his own farm:

- (1) Persons, irrespective of whether any such person is a producer:
  - a. Who pasteurize or bottle milk or process milk into fluid milk;
  - b. Who sell and/or market fluid milk at wholesale or retail:
    1. To hotels, restaurants, stores or other establishments for consumption on the premises,
    2. To stores or other establishments for resale, or
    3. To consumers;
  - c. Who operate stores or other establishments for the sale of fluid milk at retail for consumption off the premises.
- (2) Persons wherever located or operating, whether within or without the State of North Carolina, who purchase, market or handle milk for resale as fluid milk in the State.

'Health authorities' includes the State Board of Health, the State Department of Agriculture, the Commissioner of Agriculture, and the local health authorities.

'Licensee' means a licensed milk distributor.

'Market' means any city, town, or village of the State, or any two or more cities and/or towns and/or villages and surrounding territory designated by the Commission as a natural marketing area.

'Milk' means the clean lacteal secretion obtained by the complete milking of one or more healthy cows properly fed, housed, and kept; including milk that is produced under strict sanitary conditions, and cooled, pasteurized, standardized or otherwise processed with a view of selling it as fluid milk, cream, buttermilk (either cultured or natural buttermilk, and including cultured whole milk in its several forms) and skimmed milk. Said term excludes the lacteal secretions of one or more dairy cows where the secretion is to be sold for any other purpose.

'Person' means any person, firm, corporation or association.

'Producer' means any person, irrespective of whether such person is a member of a producer association or a distributor, who operates to produce milk for sale as fluid milk in the State.

'Sanitary regulations' includes all laws and ordinances relating to the production, handling, transportation, distribution and sale of milk and, so far as applicable thereto, the State sanitary code and lawful regulations adopted by the dairy and food divisions, or by the board of health of any county or municipality.

'Subdistributor' as distinguished from a 'distributor' means one who does not process milk but purchases its milk from a licensed distributor for distribution.

'Subsidiary' means any person or officer over whom or which a distributor or an affiliate of a distributor has, or several distributors have either directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.

**"§ 106-266.7. Milk Commission created; membership; chairman; compensation; quorum.**

— (a) There is hereby continued a Milk Commission, consisting of seven (7) members, all of whom shall be appointed by the Governor, and one of whom shall be a Grade A producer whose primary interest is operating a dairy farm and one a distributor or employee of a distributor; the other five shall be public members and shall have no financial interest in, or be directly involved in, the production, processing, or distribution of milk or products derived therefrom. Of the Commission members appointed following the ratification of this act, the Governor shall appoint one for a term of one year, two for a term of two years, two for a term of three years, and two for a term of four years. Thereafter appointments of Commission members shall be made for a term of four years, ending on June 30th of the appropriate year; provided, however, that all members appointed pursuant to this section shall serve until their successors are appointed and qualified. In case of death or resignation of a member of the Commission prior to the expiration of his term of office, his successor shall be appointed by the Governor to fill out the unexpired term.

(b) At the first meeting of the Commission held after the effective date of this act, the Commission shall elect one of its public members as its chairman to serve through June 30th of the next following year. Thereafter, at its first meeting held on or after July first of each year, the Commission shall elect one of its public members to serve as chairman through June 30th of the next following year.

(c) The Commission is hereby authorized and empowered to employ an Administrator and such other personnel, including but not limited to, the services of any agency or agencies, either inside or outside the State, as may be deemed necessary in assembling information on costs and other factors needed to carry out the provisions of this Article.

(d) The compensation for members of the Commission shall be set by the Governor with the approval of the Advisory Budget Commission. Members of the Commission shall also be reimbursed for actual and necessary expenses incurred in the performance of their duties.

(e) The compensation of the Administrator shall be set according to law.

(f) All sums required for the operation of the Commission - salaries, per diem, and expenses - shall be paid out of special assessments collected from producers and distributors as set forth in G.S. 106-266.11.

(g) Four members of the Commission shall constitute a quorum.

(h) The Commission may call upon the Commissioner of Agriculture, the Director of Agricultural Research, the Director of the Agricultural Extension Service, or any other agency or department of the State for such information or services as such agency or department can provide, and such agency or department shall furnish such information or services, without compensation therefor, as in its opinion is practicable.

(i) The Commission shall, subject to the limitations herein contained and the rules and regulations of the Commission, enforce the provisions of this Article; but no official act shall be taken, rule or regulation be promulgated, or official order be made or enforced, with respect to the provisions of this Article without the due approval of the Commission.

(j) The Commission shall, by rule or otherwise, fix the time for holding regular meetings. The chairman, or any two members of the Commission, may at any time call a special meeting of the Commission. Such call shall designate the time and place of the meeting, and shall give not less than five days written notice to each member by first class mail to the address designated for said member on the records of the Commission. Notice of special meeting shall be signed by the person or persons calling the meeting and shall give a brief

description of the business to be considered at said meeting. In addition, a special meeting of the Commission may be held at any time or place, either within or without the State, with the unanimous consent of all members of the Commission.

(k) The principal office of the Commission shall be in the City of Raleigh, North Carolina, in rooms assigned by the Department of Administration."

**"§ 106-266.8. Powers of Commission.** — The Commission is hereby declared to be an instrumentality of the State of North Carolina, vested with power:

- (1) To confer with the legally constituted authorities of other states of the United States, with a view of securing a uniformity of milk control, with respect to milk coming into the State of North Carolina and going out of the said State in interstate commerce, with a view of accomplishing the purpose of this Article, and to enter into a compact or compacts for such uniform system of milk control.
- (2) To investigate all matters pertaining to the production, processing, storage, distribution, and sale of milk for consumption in the State of North Carolina.
- (3) To supervise and regulate the transportation, processing, storage, distribution, delivery and sale of milk for consumption; provided that nothing in this Article shall be interpreted as giving the Commission any power to limit the quantity of milk that any producer can produce, nor the power to prohibit or restrict the admission of new producers.
- (4) To act as mediator or arbiter in any controversial issue that may arise among or between milk producers and distributors as between themselves, or that may arise between them as groups.
- (5) To cause examination into the business, books, and accounts of any milk producer, association of producers or milk distributors, their affiliates or subsidiaries; to issue subpoenas to milk producers, associations of producers, and milk distributors, and require them to produce their records, books, and accounts; to subpoena any other person from whom information is desired.
- (6) To take depositions of witnesses within or without the State. Any member of the Commission or any employee of the Commission, so designated, may administer oaths to witnesses and sign and issue subpoenas.
- (7) To make, adopt, and enforce all rules, regulations and orders necessary to carry out the purposes of this Article. Every rule, regulation and order of the Commission shall be posted for inspection in the main office of the Commission. A certified copy of all general administrative rules and regulations or rules of practice and procedure shall be filed with the Secretary of State and with each Clerk of the Superior Court as required by G.S. 143-195 and G.S. 143-198.1, and a certified copy thereof shall likewise be mailed in a sealed envelope, with postage prepaid, to all licensed distributors and associations of producers in the State. Such filing and mailing shall constitute due and sufficient notice to all persons affected by such rule, regulation or order. An order which applies only to a person or persons named therein shall be served on the person or persons affected. An order, herein required to be served, shall be served by personal delivery of a certified copy, or by mailing a certified copy in a sealed envelope, with postage prepaid, to each person affected thereby, or in the case of a corporation, to any officer or agent of the corporation upon whom legal process may be served.
- (8) The operation and effect of any provision of this Article conferring a general power upon the Commission shall not be impaired or qualified by the granting to the Commission by this Article of a specific power or powers.

- (9) The Commission shall not exercise its power in any market until a public hearing has been held for such market, and the Commission determines that it will be to the public interest that it shall so exercise its power in such market. The Commission may, on its own motion, call such a hearing, and shall call such a hearing upon the written application of a producers' association organized under the laws of the State, supplying in the judgment of the Commission, a substantial proportion of the milk consumed in such market, but if no such producers' organization exists on said market, the Commission shall call such hearing upon the written application of producers supplying a substantial proportion of the milk consumed in said market; and shall call such hearing upon the written application of distributors, distributing a substantial proportion of the milk consumed in such market. Such hearing may be held at the time and place and after such notice as the Commission may determine.
- The Commission may withdraw the exercise of its powers from any market after a public hearing has been held for such market, and the Commission determines that it will be to the public interest to withdraw the exercise of its powers from such market.
- (10)
- a. The Commission, after investigation and public hearing, may fix prices to be paid producers and/or associations of producers by distributors in any market or markets, and may also fix different prices for different grades or classes of milk.
  - b. The Commission, after investigation and public hearing and finding as a fact that it is in the public interest, may fix the minimum wholesale and retail prices to be charged for milk in any market area and may fix different prices for different grades or classes of milk.
  - c. Prices fixed under this subsection (10) shall not become effective until ten (10) days after the mailing of notice of the action of the Commission. Prices fixed under "b." above shall remain in effect for at least thirty (30) days and until the Commission finds it is in the public interest to remove said prices.
  - d. In determining the reasonableness of prices to be paid or charged in any market, the Commission shall be guided by the cost of production and distribution, including compliance with all sanitary regulations in force in such market or markets, necessary operating, processing, storage and delivery charges, the prices of other foods and other commodities, and the welfare of the general public.
  - e. In establishing producer prices for milk moving into other states, the Commission shall consider prevailing producer prices established by state or federal authority in such states.
- (11) The Commission may require all distributors in any market designated by the Commission to be licensed by the Commission for the purpose of carrying out the provisions of this Article. One who purchases milk from a licensed distributor for the purpose of retail sales shall not be required to be licensed hereunder. The Commission may decline to grant a license, or may suspend or revoke a license already granted upon due notice and after a hearing, whenever said applicant or licensee shall have violated the regulations adopted by the Commission or failed to comply with the requirements of this Article 28B, or upon any of the following grounds:

- a. Where the distributor has failed to account and make payment for any milk purchased or received on consignment or otherwise from a producer or association of producers, or has, if a subdistributor, failed to account and make payment for any milk purchased or received on consignment or otherwise from a distributor; provided, however, that if it be shown there was reasonable cause for any such failure to account and make payment, and that such accounting and payment can and will be made promptly, the Commission shall not suspend or revoke a license solely for such failure until a reasonable opportunity has been afforded to make such accounting and payment.
- b. Where the applicant or distributor has made a general assignment for the benefit of creditors, or has been adjudged a bankrupt or there has been entered against him a judgment upon which an execution remains wholly or partly unsatisfied, or where it is shown that the applicant or distributor has insufficient financial responsibility, personnel or equipment properly to conduct the milk business.
- c. Where the applicant or distributor has engaged in a course of action such as to satisfy the Commission of an intent on his part to deceive or defraud customers, producers or consumers.
- d. Where the applicant or distributor has failed to maintain such records as are required by the rules and regulations of the Commission or has failed to furnish the statements or information required by the Commission under this Article 28B or has kept false records or furnished false statements with respect to such information.
- e. Where the applicant or distributor has rejected, without reasonable cause, any milk purchased from a producer, or has refused to accept, without either reasonable cause or reasonable advance notice, milk delivered by or on behalf of a producer in ordinary continuance of a previous course of dealing, except when the contract has been lawfully terminated.

In any case where the Commission shall suspend a license, the Commission may, in its discretion, accept from the licensee an offer in compromise of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000) as a penalty in lieu of such suspension, and thereupon rescind the suspension. All receipts from such penalties shall be paid by the Commission to the State Treasurer for disposition in the same manner as assessments, as provided by G.S. 106-266.12. The Commission may classify licenses, and may issue licenses to distributors to process or store or sell milk to a particular city or village or to a market or markets within the State of North Carolina.

- (12) Any member of the Commission, or any person designated for the purpose, shall have access to, and may enter at all reasonable hours, all places where milk is processed, stored, bottled or manufactured into food products. Any member of the Commission or designated employee shall have the power to inspect and copy books and records in any place within the State for the purpose of ascertaining facts to enable the Commission to administer this Article. The Commission may combine such information for any market or markets and make it public.
- (13) The Commission may define after a public hearing what shall constitute a natural market area and define and fix limits of the milk shed or territorial area within which milk shall be produced to supply any such market area:

Provided, that producers, producer-distributors or their successors now shipping milk to any market may continue to do so until they voluntarily discontinue shipping to the designated milk market.

- (14) Each licensee shall from time to time, as required by the Commission, submit verified reports containing such information as the Commission may require.

**"§ 106-266.9. Distributors to be licensed; prices and practices of distributors regulated.**

— No distributor in a market in which the provisions of this Article are in effect shall buy milk from producers, or others, for sale within the State, or sell or distribute milk within the State, unless such distributor is duly licensed under the provisions of this Article. It shall be unlawful for a distributor to buy from or sell milk to a distributor who is not licensed as required by this Article. It shall be unlawful for any distributor to deal in, or handle milk if such distributor has reason to believe that the milk has been previously dealt in, or handled, in violation of the terms and provisions of this Article. No distributor shall violate the prices as established by or filed with the Commission or offer any discounts or rebates without authority from the Commission; and the Commission may prohibit such practices as it may deem to be contrary to the welfare of the public and the dairy industry, such as the use of special prices or special inducements in any form or any unfair trade practices in order to vary from the established prices. The Commission may require each distributor to file with the Commission one complete schedule of his wholesale and retail prices for each marketing area and may require each distributor to charge his posted prices for all sales and to give ten days' notice by certified mail to the Commission and every licensed distributor in each marketing area affected prior to the effective date of any changes in said posted prices. The requirements as to filing price schedules shall not apply to retail stores the principal business of which is selling other than dairy products and which do not maintain or control directly or indirectly a milk processing plant. The Commission may prohibit a distributor from selling or offering for sale milk in any market or county at prices less than the prices filed for the market or county in which such distributor's processing or bottling plant is located, except in such cases as such sales may be made at a lower price or prices in good faith to meet competition.

**"§ 106-266.10. Licenses for distributors and subdistributors.** — An application to the Commission for a license to operate as a distributor or subdistributor shall be made by mail or otherwise within thirty (30) days after the provisions of this Article become effective in a market, and as to any distributor or subdistributor thereafter beginning business, before such distributor or subdistributor shall begin such business therein. The application shall be made on blanks furnished by the Commission for that purpose. Each distributor shall cooperate with the Commission in seeing to it that its subdistributors are informed concerning, and comply with, the provisions of this Article and the rules and regulations duly adopted by the Commission.

**"§ 106-266.11. Annual budget of Commission; collection of monthly assessments.** — The Commission shall prepare an annual budget and shall collect the sums of money required for this budget from the distributors in the form of monthly assessments. The assessments so levied shall not exceed four cents (4¢) per hundred pounds of milk handled. One-half of any such assessment shall be deducted from funds owed to a producer or any association of producers.

**"§ 106-266.12. Milk Commission Account; deductions by distributor from funds owed to producer.** — All receipts from assessments collected under this Article shall be paid by the Commission to the State Treasurer and shall be placed by the State Treasurer in a general fund to the credit of an account to be known as the 'Milk Commission Account' and such an amount as may be necessary, and no more, is hereby appropriated out of this Milk Commission Account, for the payment of all expenses incurred by the Commission in administering and enforcing this Article. The Commission shall require a distributor to make such deductions from funds owed to a producer as authorized by the producer.

"§ 106-266.13. **Injunctive relief.** — In the event of violation of any provisions of this Article, or order promulgated under the provisions thereof, in addition to any other remedy, the Commission may apply to any court of record in the State of North Carolina for relief by injunction, if necessary, to protect the public interest without being compelled to allege or prove that any adequate remedy at law does not exist.

"§ 106-266.14. **Penalties.** — Any person violating any provisions of this Article, or order promulgated under the provisions thereof, or of any license issued by the Commission shall be guilty of a misdemeanor and may be prosecuted and punished therefor, and upon conviction, shall be punished by a fine of not less than twenty-five dollars (\$25.00) and not more than one hundred dollars (\$100.00), or by imprisonment in the county jail for not less than thirty (30) days nor more than one year, or by both fine and imprisonment, and each day during which such violation shall continue shall be deemed a separate violation. Prosecutions for violations of this Article shall be instituted by the Attorney General or otherwise, in any county or city of the State of North Carolina in which such violations occur.

"§ 106-266.15. **Appeals.** — person files a petition for judicial review of the same order, action, rule, or (a) Any person aggrieved by an order of the Commission revoking or suspending the license of a distributor or producer-distributor, or refusing to grant a license or to reissue a license or to transfer a license from one person to another, or by any action, rule, regulation, or order of the Commission applying only to a particular person (as distinguished from rules and regulations of general application), may have such order reviewed upon appeal to the superior court as provided in this subsection (a). Any such aggrieved person may within forty (40) days after the effective date of such action, rule, regulation, or order, appeal therefrom to the superior court. No such appeal shall act as a supersedeas except on a special order of the superior court allowing a supersedeas. Before the expiration of forty (40) days, such an aggrieved person shall file written notice of appeal with the Commission and within ten (10) days after receipt of said written notice of appeal, it shall be the duty of the Commission to certify a complete record of its proceedings with all papers or evidence to the clerk of the superior court of the county in which the appellant resides or to the clerk of the superior court of the county in which the violation occurred. The cause shall be entitled 'State of North Carolina on Relation of the North Carolina Milk Commission v. (here insert name of appellant)', and said cause shall be placed on the civil docket of the superior court of said county and shall be heard de novo under the same rules and regulations as are prescribed for the trial of other civil causes. The Commission shall be deemed to be a party plaintiff on such appeal and at its request may present its contentions, make arguments, and take any other legal steps that a party to a civil action may take in the superior court, including the right to appeal to the Court of Appeals.

(b) The provisions of Article 33 of Chapter 143 of the General Statutes of North Carolina relating to 'Judicial Review of Decisions of Certain Administrative Agencies' shall apply to appeals or petitions for judicial review by any person or persons aggrieved by an order of the Commission, fixing, revising or amending the price at or the terms upon which milk may be bought or sold, or by an order promulgating rules and regulations affecting the milk industry as a whole, or by any other order, action, rule, or regulation of the Commission of general application. In the event more than one regulation, the cases shall be consolidated for hearing in the superior court.

"§ 106-266.16. **Saving clause.** — No provisions of this Article shall apply or be construed to apply to foreign or interstate commerce, except insofar as the same may be effective pursuant to the United States Constitution and to the laws of the United States enacted pursuant thereto.

"§ 106-266.17. **Marketing agreements not to be deemed illegal or in restraint of trade; conflicting laws.** — The making of marketing agreements between producers' cooperative marketing associations and distributors and producer-distributors under the provisions of this Article shall not be deemed a combination in restraint of trade or an illegal monopoly, or an

attempt to lessen competition or fix prices arbitrarily nor shall the marketing contract or agreements between the association and the distributors and producer-distributors, or any agreements authorized in this Article, be considered illegal or in restraint of trade. All laws and clauses of laws in conflict with the provisions of this Article are hereby repealed to the extent necessary for the full operation of this Article. No provisions of this Article shall be deemed in conflict with Articles 28 and 28A of Chapter 106, Volume 3A of the General Statutes. No provisions of this Article shall be deemed in conflict with the authority granted to county, city-county and district boards of health by Sections 130-19, 130-20, 130-66, of Chapter 130, Volume 3B of the General Statutes, to make and enforce rules and regulations governing milk sanitation or with the authority granted to the State Board of Health by Section 130-3 of Volume 3B of the General Statutes, to make sanitary inquiries and investigations.

**"§ 106-266.18. Limitations upon power of Commission.** — Nothing in this Article shall be interpreted as giving the Commission any power to limit the quantity of milk that any producer can produce, nor the power to prohibit or restrict the admission of new producers, nor the power to restrict the marketing area of any producer'.

**"§ 106-266.19. Sale below cost to injure or destroy competition prohibited.** — The sale of milk by any distributor or producer-distributor or retailer below cost for the purpose of injuring, harassing or destroying competition is hereby prohibited; and the offering for sale of milk by a retailer at below-cost prices to induce the public to patronize his store, or what is commonly known in the trade as using milk as a 'loss leader' is also hereby prohibited. At any hearing or trial on a complaint under this section, evidence of sale of milk by a distributor or subdistributor or retailer below cost shall constitute prima facie evidence of the violation or violations alleged, and the burden of rebutting the prima facie case thus made, by showing that the same was justified in that it was not, in fact, made below cost or that it was not for the purpose of injuring, harassing or destroying competition, or that it was not used as a 'loss leader' or to induce the public to patronize his store, shall be upon the person charged with a violation of this section. As used herein the term 'cost' shall be construed to mean the price paid for Grade A or Class I milk in the area where such sale is made plus a reasonable allocation of processing and marketing expenses. In determining whether any sale has been made in violation of this section, the Commission shall consider all discounts, rebates, gratuities or any other matters which may have the effect of either directly or indirectly reducing the price received by the distributor or producer-distributor or retailer involved. The prima facie case of a violation of this section, made by proof of sale below cost, may be rebutted by proof of any of the following facts:

- (1) The merchandise was damaged, or
- (2) The milk was sold upon the final liquidation of a business, or
- (3) The milk was sold to an organized charity or to a relief agency, or
- (4) The milk was sold by an officer acting under the direction of any court."

**Sec. 2.** The reorganization of the Commission and revision of its powers and duties brought about by this amendment shall in no way affect the validity or continuity of any rule, regulation, order or action of the Commission which is in effect at the time this amendment becomes effective. All valid rules, regulations, orders and actions taken or adopted by the Commission at any time prior to the effective date of this amendment shall continue in full force and effect (without the necessity for reoption or reaffirmation of same) until such time as the same are rescinded or revised by the Commission.

**Sec. 3.** The terms of office of present members of the Commission shall expire on the date when this act becomes effective.

**Sec. 4.** All laws and clauses of laws in conflict with this act are hereby repealed.

**Sec. 5.** This act shall become effective ninety (90) days after its ratification.

In the General Assembly read three times and ratified, this the 7th day of July, 1971.