

the northeast corner of said Block 13, thence East along the easterly extension of the north line of said Block 13 to the west shoreline of the Mississippi River; thence southerly along said shoreline to the easterly extension of the centerline of Fourteenth Street South; thence West to the point of beginning.

AND

That part of Government Lot 1, Section 24, Township 124, Range 28, Stearns County, Minnesota lying South of the North 476.00 feet thereof and southeasterly of the following described line:

Commencing at the meander corner on the north line of said Section 24 distant 2072.40 feet East of the northwest corner of said Section 24; thence West (assumed bearing of Due West) for 54.27 feet; then Due South for 476.00 feet to the point of beginning of the line to be described; thence South 30°41'57" West for 368.85 feet; thence South 46°20'54" West for 203.81 feet; thence South 60°59'34" West for 260.42 feet to the southeasterly right of way line of an abandoned railroad spur formerly owned by Burlington Northern Railroad Company; thence South 42°42'23" West along said southeasterly right of way line to the south line of said Government Lot 1 and there terminating.

**Sec. 2. EFFECTIVE DATE.**

Section 1 is effective the day following final enactment.

Presented to the governor April 29, 1993

Signed by the governor April 30, 1993, 3:28 p.m.

**CHAPTER 65—H.F.No. 661**

*An act relating to agriculture; regulating dairy trade practices and minimum pricing; abolishing the Dairy Industry Unfair Trade Practices Act; changing enforcement procedures; imposing an assessment on certain class I milk; appropriating money; providing penalties; amending Minnesota Statutes 1992, sections 13.99, by adding a subdivision; 17.983, subdivision 1; 17.984, subdivision 1; and 32.394, subdivisions 8d and 9; proposing coding for new law in Minnesota Statutes, chapter 32; repealing Minnesota Statutes 1992, sections 32A.01; 32A.02; 32A.03; 32A.04; 32A.05; 32A.07; 32A.071; 32A.08; and 32A.09.*

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:**

Section 1. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 8a. DAIRY TRADE PRACTICES. Certain information obtained by the commissioner of agriculture on dairy marketers or retailers is classified in section 7.

Sec. 2. Minnesota Statutes 1992, section 17.983, subdivision 1, is amended to read:

Subdivision 1. **ADMINISTRATIVE PENALTIES; CITATION.** If a person has violated chapter 29, 31, 31A, 32, or 34, the commissioner may issue a written citation to the person by personal service or by certified mail. The citation shall describe the nature of the violation and the statute or rule alleged to have been violated; state the time for correction; and the amount of any proposed fine. The citation must advise the person to notify the commissioner in writing within 30 days if the person wishes to appeal the citation. If the person fails to appeal the citation, the citation is the final order and not subject to further review.

Sec. 3. Minnesota Statutes 1992, section 17.984, subdivision 1, is amended to read:

Subdivision 1. **AUTHORITY.** To carry out the commissioner's enforcement duties under chapter 29, 31, 31A, 32, or 34, the commissioner may, upon presenting appropriate credentials, during regular working hours and at other reasonable times, inspect premises subject to the commissioner's enforcement and licensing authority for reasons related to the commissioner's enforcement and licensing authority; request information from persons with information relevant to an inspection; and inspect relevant papers and records, including business records. The commissioner may issue notices in lieu of citations for minor violations if a notice is in the public interest.

Sec. 4. Minnesota Statutes 1992, section 32.394, subdivision 8d, is amended to read:

Subd. 8d. **PROCESSOR ASSESSMENT.** (a) A manufacturer shall pay to the commissioner a fee for fluid milk processed and milk used in the manufacture of fluid milk products sold for retail sale in Minnesota. Beginning July May 1, 1991 1993, the fee is five six cents per hundredweight. If the commissioner determines that a different fee, not exceeding less than five cents and not more than nine cents per hundredweight, when combined with general fund appropriations and fees charged under sections 31.39 and 32.394, subdivision 8, is needed to provide adequate funding for the Grades A and B inspection programs and the administration and enforcement of this act, the commissioner may, by rule, change the fee on processors within the range provided within this subdivision.

(b) Processors must report quantities of milk processed under paragraph (a) on forms provided by the commissioner. Processor fees must be paid monthly. The commissioner may require the production of records as necessary to determine compliance with this subdivision.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 5. Minnesota Statutes 1992, section 32.394, subdivision 9, is amended to read:

Subd. 9. **PAYMENTS; REFUNDS; DISPOSITION.** Fees are payable by a processor or marketing organization by July 1 of each year for Grade A, and by January 1 of each year for manufacturing grade, and if not paid within 30 days of the due date, the service must be discontinued, and permission to market manufacturing grade or Grade A milk or milk products or use the Grade A label must be withdrawn. A processor may terminate payment and service without loss of the Grade A label if written notice of that intention is given prior to the due date of the payment of an assessment and if the continuous inspection of the plant is assumed by a city whose milk control ordinance is substantially equivalent to Minnesota law and rule and is enforced with equal effectiveness. If a farm discontinues the production of milk within six months of the billing date, a request for a refund based on inspection services not received may be made by the processor or by the marketing organization on behalf of its patrons. This request must be made in writing by July 1 for manufacturing grade, or by December 31 for Grade A, and on approval by the commissioner refunds must be made to the processor or marketing organization.

The fees for services performed by the activities of this section must be deposited in the state treasury and constitute a separate account to be known as the ~~milk inspection service~~ dairy services account, which is hereby created, set aside, and appropriated as a revolving fund to be used to help to defray the cost of administration, refunds and expenses of the preliminary and continuous milk inspection services and is in addition to and not in substitution for the sums appropriated or otherwise made available for this purpose to the department of agriculture.

Sec. 6. [32.70] **DEFINITIONS.**

Subdivision 1. APPLICATION. The definitions in this section apply to sections 32.70 to 32.74.

Subd. 2. BASIC COST. (a) "Basic cost" for a processor means the actual cost of the raw milk plus 75 percent of the actual processing and handling costs for a selected class I or class II dairy product.

(b) "Basic cost" for a wholesaler means the actual cost of the selected class I or class II dairy product purchased from the processor or another wholesaler.

(c) "Basic cost" for a retailer means the actual cost of the selected class I or class II dairy product purchased from a processor or wholesaler.

Subd. 3. BONA FIDE CHARITY. "Bona fide charity" means a corporation, trust, fund, or foundation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes.

Subd. 4. PROCESSOR. "Processor" means a person engaged in manufac-

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turing or processing selected class I or class II dairy products in the person's own plant for sale in Minnesota.

Subd. 5. PRODUCER. "Producer" means a person who operates a dairy herd or herds in Minnesota producing milk or cream commercially and whose milk or cream is sold to, or received or handled by, a distributor or processor. "Producer" does not include an incorporated or unincorporated association of producers.

Subd. 6. RESPONSIBLE PERSON. "Responsible person" means the business entity that makes payment to an individual Grade A or Grade B milk producer.

Subd. 7. SELECTED CLASS I DAIRY PRODUCTS. "Selected class I dairy products" means milk for human consumption in fluid form and all other class I dairy products as defined by the Upper Midwest Milk Marketing Order, Code of Federal Regulations, title 7, part 1068.40, or successor orders.

Subd. 8. SELECTED CLASS II DAIRY PRODUCTS. "Selected class II dairy products" means milk for human consumption processed into fluid cream, eggnog, yogurt, and all other class II dairy products as defined by the Upper Midwest Milk Marketing Order, Code of Federal Regulations, title 7, part 1068.40, or successor orders.

Subd. 9. SELL AT RETAIL; SALE AT RETAIL; RETAIL SALES. "Sell at retail," "sale at retail," and "retail sales" mean a retail sale or offer for retail sale of a selected class I or class II dairy product for ultimate consumption or use.

Subd. 10. SELL AT WHOLESALE; SALE AT WHOLESALE; WHOLESALE SALES. "Sell at wholesale," "sale at wholesale," and "wholesale sales" mean sale or offer for sale of a selected class I dairy product for purposes of resale or further processing or manufacturing, but does not include a producer selling or delivering milk to a processor. A delivery of selected class I dairy products to a retailer in Minnesota is a "sale at wholesale" if an assessment required under section 32.73 has not been paid.

Subd. 11. WHOLESALER. "Wholesaler" means a person including a distributor in the business of making sales of selected class I or class II dairy products, at wholesale in Minnesota. In the case of a person making sales at both retail and wholesale, "wholesaler" applies only to the sales at wholesale.

**Sec. 7. [32.71] DUTIES AND POWERS OF THE COMMISSIONER;  
DATA PRIVACY.**

Subdivision 1. DUTIES; RULES. The commissioner shall adopt emergency and permanent rules to implement and administer sections 32.70 to 32.74 as necessary.

Subd. 2. DATA PRIVACY. Financial and production information received by the commissioner on processors, wholesalers, or retailers including, but not

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limited to, financial statements, fee reports, price schedules, cost documentation, books, papers, records, or other documentation for the purpose of administration and enforcement of this chapter shall be classified private data or nonpublic data pursuant to chapter 13. That classification shall not limit the use of the information in the preparation, institution, or conduct of a legal proceeding by the commissioner in enforcing this chapter.

**Sec. 8. [32.72] SALES BELOW COST PROHIBITED; EXCEPTIONS.**

**Subdivision 1. POLICY; PROCESSORS; WHOLESALERS; RETAILERS.**

(a) It is the intent of the legislature to accomplish partial deregulation of milk marketing with a minimum negative impact upon small volume retailers.

(b) A processor or wholesaler may not sell or offer for sale selected class I or class II dairy products at a price lower than the processor's or wholesaler's basic cost.

(c) A retailer may not sell or offer for sale selected class I or class II dairy products at a retail price lower than 107.5 percent of the retailer's basic cost. A retailer may not use any method or device in the sale or offer for sale of a selected dairy product that results in a violation of this section.

Subd. 2. EXCEPTIONS. The minimum processor, wholesaler, and retailer prices of subdivision 1 do not apply:

(i) to a sale complying with section 325D.06, clauses (1) to (4);

(ii) to a retailer giving away selected class I and class II dairy products free if the customer is not required to make a purchase;

(iii) to a processor, wholesaler, or retailer giving away selected class I and class II dairy products free or at a reduced cost to a bona fide charity; or

(iv) to a retailer during the month of June, 1994, and June of each year thereafter.

**Sec. 9. [32.73] MILK OVER-ORDER PREMIUM; PURPOSE; IMPLEMENTATION; ASSESSMENT FORMULA; EXEMPTIONS; DISCLOSURE; REPORT.**

Subdivision 1. PURPOSE. The legislature hereby establishes an over-order premium for milk to benefit the incomes of all Minnesota dairy producers and stabilize the economy in rural communities.

Subd. 2. IMPLEMENTATION. If the price for class I milk, as announced for each month by the federal milk marketing order that includes Minnesota, falls below \$13.20 per hundred pounds, the provisions of this section are effective and the commissioner shall implement the over-order premium program.

Subd. 3. ASSESSMENT FORMULA. For each cent the announced price per hundred pounds of milk falls below \$13.20, the commissioner shall collect from the wholesaler that makes the first wholesale sale of selected class I dairy

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products for retail sale in Minnesota an assessment of \$0.0225. The commissioner shall deposit the assessments in the Minnesota milk over-order premium account which account is hereby created.

Subd. 4. EXEMPTIONS. Selected class I dairy products sold as home delivery retail sales and sales to public or nonpublic schools are exempt from assessment under this section.

Subd. 5. EQUALIZATION POOL. Money in the Minnesota milk over-order premium account is appropriated to the commissioner to pool and redistribute payments at a uniform rate to Minnesota Grade A and B milk producers. The commissioner may make payments to a responsible person who, in turn, must pay Grade A and Grade B milk producers at the uniform distribution rate.

Subd. 6. DISCLOSURE. Payments of the over-order premium to a producer must be accompanied by a statement specifying the over-order premium rate, the dates of delivery to which the premium applies, the total hundred-weight of milk to which the over-order premium applies, and the over-order premium amount paid to the producer.

Subd. 7. ANNUAL REPORT. Not later than February 1 of 1994 and each year thereafter, the commissioner, after consultation with representatives of the dairy production, processing, and marketing industries, shall report to the chairs of the agriculture committees of the senate and the house of representatives on the impacts and benefits to dairy farmers of the over-order premium and dairy marketing partial deregulation provisions of this act and the level of over-order premiums provided by common marketing agencies in the upper midwest during the previous calendar year. In addition, the February 1, 1994 report must provide recommendations concerning the desirability of exempting from the over-market premium assessment selected class I dairy products sold to certain not-for-profit customers, including hospitals, nursing homes, licensed day care providers, and residential care facilities and institutions. The report provided by the commissioner on February 1, 1995, must include an assessment of the impact of the removal of retail price controls during the month of June, 1994.

**Sec. 10. [32.74] REDRESS FOR INJURY OR THREATENED INJURY.**

A person injured by a violation of sections 32.70 to 32.74 may commence a legal action based on the violation in a court of competent jurisdiction and may recover economic damages and the costs of the action, including reasonable attorneys' fees. A person injured or who is threatened with injury or loss by reason of violation of sections 32.70 to 32.74 may commence a legal action based on the violation and obtain injunctive relief in a court of competent jurisdiction against persons involved in a violation or threatened violation of sections 32.70 to 32.74 to prevent and restrain violations or threatened violations of sections 32.70 to 32.74 without alleging or proving actual damages or that an adequate remedy at law does not exist, so that injunctive relief can be obtained promptly and without awaiting evidence of injury or actual damage. This injunctive relief does not abridge and is not in lieu of any other civil remedy provided in sections 32.70 to 32.74.

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**Sec. 11. RETURN OF CERTAIN ASSESSMENTS.**

Any balance that may exist in the Minnesota class I premium equalization fund on the effective date of this act must be returned to processors in proportion to their contributions to the balance.

**Sec. 12. SEVERABILITY.**

If any provision of Minnesota Statutes, section 32.73, is held to be unconstitutional, then all of Minnesota Statutes, section 32.73, is inoperative and of no effect.

**Sec. 13. COMMISSIONER'S TASK FORCE; FEDERAL MILK MARKETING ORDERS.**

The commissioner of agriculture may appoint and convene a task force consisting of three dairy producers, two of whom must be members of the Minnesota milk producers association, one dairy processor, one retail grocer, one consumer, the director of the dairy and livestock division of the department of agriculture, and the chairs of the agriculture committees of the senate and the house of representatives to determine the appropriate administrative and legislative actions which can be taken to reform the federal Milk Marketing Order System's class I pricing provisions that discriminate against upper midwest dairy producers. The chairs of the agriculture committees of the senate and the house of representatives may each appoint one additional member to the task force from the members of their respective agriculture committees. The commissioner shall report the findings and recommendations of the task force to the agriculture committees of the senate and the house of representatives.

**Sec. 14. TRANSITION RULES; ACCOUNTS.**

Emergency and permanent rules adopted by the commissioner of agriculture during 1992 and 1993 under Minnesota Statutes, section 32A.071, remain in effect until modified by the commissioner to conform to provisions of this act. The Minnesota Class I Premium Equalization Fund shall be renamed the Minnesota Milk Over-order Premium Account.

**Sec. 15. REPEALER.**

Minnesota Statutes 1992, sections 32A.01; 32A.02; 32A.03; 32A.04; 32A.05; 32A.07; 32A.071; 32A.08; and 32A.09, are repealed.

**Sec. 16. EFFECTIVE DATE.**

This act is effective the day following final enactment except that the repeal of Minnesota Statutes, section 32A.071, in section 15 is effective retroactive to April 1, 1993, and the provision for assessments in section 9 is effective on the first day of the month following final enactment.

Presented to the governor April 29, 1993

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Signed by the governor April 30, 1993, 3:03 p.m.

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**CHAPTER 66—H.F.No. 806**

*An act relating to commerce; prohibiting smoking in designated nonsmoking hotel rooms; allowing reimbursement to innkeepers for actual costs resulting from violation; prescribing a penalty; proposing coding for new law in Minnesota Statutes, chapter 327.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

**Section 1. [327.742] SMOKING IN DESIGNATED NONSMOKING ROOMS.**

Subdivision 1. SMOKING PROHIBITED. No person shall smoke cigarettes, cigars, pipes, or other smoking material in a hotel sleeping room designated nonsmoking.

Subd. 2. PENALTY. A person who violates this section is guilty of a petty misdemeanor. Upon conviction, the court may require a person who violates this section to reimburse the innkeeper for actual costs, not to exceed \$100, incurred to restore the room to its previolation condition.

Subd. 3. NOTICE. Innkeepers shall post signs conspicuously in all nonsmoking sleeping rooms stating that smoking is not permitted and advising occupants of the provisions of this section.

Presented to the governor April 29, 1993

Signed by the governor April 30, 1993, 3:32 p.m.

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**CHAPTER 67—H.F.No. 1423**

*An act relating to unemployment compensation; modifying definitions; changing provisions relating to eligibility for and administration of unemployment compensation; amending Minnesota Statutes 1992, sections 268.04, subdivisions 4 and 12; 268.08, subdivisions 3 and 6; 268.09, subdivisions 1, 2, and 8; 268.10, subdivisions 2 and 6; 268.12, subdivision 12; 268.16, subdivision 4; and 268.161, subdivision 9.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1992, section 268.04, subdivision 4, is amended to read:

Subd. 4. **BENEFIT YEAR.** "Benefit year" with respect to any individual

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