

112TH CONGRESS
1ST SESSION

H. R. 3372

To amend the Agricultural Adjustment Act to deregulate the Federal milk marketing order program, to publish competitive milk price survey data, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 4, 2011

Mr. WALSH of Illinois introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To amend the Agricultural Adjustment Act to deregulate the Federal milk marketing order program, to publish competitive milk price survey data, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Dairy Pricing Deregu-
5 lation Act”.

6 **SEC. 2. REFORM OF FEDERAL MILK MARKETING ORDERS.**

7 (a) TERMS AND CONDITIONS OF MILK AND MILK
8 PRODUCTS ORDERS.—Section 8c of the Agricultural Ad-

1 justment Act (7 U.S.C. 608c), reenacted with amendments
2 by the Agricultural Marketing Agreement Act of 1937, is
3 amended—

4 (1) in subsection (5)—

5 (A) by striking paragraphs (C), (D), (H),
6 (I), (J), and (K);

7 (B) by amending paragraph (A) to read as
8 follows:

9 “(A) Fixing a differential which all han-
10 dlers of milk used for fluid purposes shall pay
11 with respect to such milk, and the time when
12 payments shall be made, for milk purchased
13 from producers or associations of producers.
14 Such differential shall be uniform as to all such
15 handlers, subject only to adjustment for the lo-
16 cations at which delivery of such milk is made
17 to such handlers.”;

18 (C) by amending paragraph (B) to read as
19 follows:

20 “(B) Providing for the payment to all pro-
21 ducers and associations of producers delivering
22 milk to any fluid milk handler regulated by the
23 order, or to any non-fluid milk handler which
24 supplies milk to such fluid milk handler in con-
25 formity with such requirements as the Sec-

1 retary may establish, a proportionate share,
2 based on volume of delivered milk, of all dif-
3 ferentials required to be paid under paragraph
4 (A) of this subsection (5), subject only to ad-
5 justment for the locations at which delivery of
6 such milk is made.”;

7 (D) by amending paragraph (F) to read as
8 follows:

9 “(F) Nothing contained in this subsection
10 is intended or shall be construed to prevent a
11 cooperative marketing association qualified
12 under the provisions of the Act of Congress of
13 February 18, 1922, known as the ‘Capper-Vol-
14 stead Act’ (7 U.S.C. 291 et seq.), engaged in
15 making collective sales or marketing of milk or
16 its products for the producers thereof, from
17 blending the net proceeds of all of its sales of
18 milk or its products in all markets, and making
19 distribution thereof to its producers in accord-
20 ance with the contract between the association
21 and its producers.”;

22 (E) by amending paragraph (L) to read as
23 follows:

24 “(L) Providing that adjustments in pay-
25 ments by handlers under paragraph (A) need

1 not be the same as adjustments to producers
2 under paragraph (B).”;

3 (F) by amending paragraph (M) to read as
4 follows:

5 “(M)(i) APPLICATION OF REQUIRE-
6 MENTS.—Notwithstanding any other provision
7 of this section, a milk handler described in
8 clause (ii) shall be subject to all of the fluid
9 milk differential requirements of a Federal milk
10 marketing order issued pursuant to this section
11 applicable to the county in which the plant of
12 the handler is located, if the handler has pack-
13 aged fluid milk product route dispositions, or
14 sales of packaged fluid milk products to other
15 plants, in a marketing area located in a State
16 that requires handlers to pay minimum prices
17 for raw milk purchases.

18 “(ii) COVERED MILK HANDLERS.—Except
19 as provided in clause (iv), clause (i) applies to
20 a handler of Class I milk products (including a
21 producer-handler or producer operating as a
22 handler) that—

23 “(I) operates a plant that is located within
24 the boundaries of a Federal order milk mar-

1 keting area (as those boundaries are in effect as
2 of April 11, 2006);

3 “(II) has packaged fluid milk product
4 route dispositions, or sales of packaged fluid
5 milk products to other plants, in a milk mar-
6 keting area located in a State that requires
7 handlers to pay fluid milk differentials for raw
8 milk purchases; and

9 “(III) is not otherwise obligated by a Fed-
10 eral milk marketing order, or a regulated milk
11 pricing plan operated by a State, to pay min-
12 imum class prices or fluid milk differentials for
13 the raw milk that is used for such dispositions
14 or sales.

15 “(iii) OBLIGATION TO PAY FLUID MILK
16 DIFFERENTIALS.—For purposes of clause
17 (ii)(III), the Secretary may not consider a han-
18 dler of Class I milk products to be obligated by
19 a Federal milk marketing order to pay fluid
20 milk differentials for raw milk unless the han-
21 dler operates the plant as a fully regulated fluid
22 milk distributing plant under a Federal milk
23 marketing order.

24 “(iv) CERTAIN HANDLERS EXEMPTED.—
25 Clause (i) does not apply to—

1 “(I) a handler (otherwise described in
2 clause (ii)) that operates a nonpool plant (as
3 defined in section 1000.8(e) of title 7, Code of
4 Federal Regulations, as in effect on the date of
5 the enactment of this subparagraph);

6 “(II) a producer-handler (otherwise de-
7 scribed in clause (ii)) for any month during
8 which the producer-handler has route disposi-
9 tions, and sales to other plants, of packaged
10 fluid milk products equaling less than
11 3,000,000 pounds of milk; or

12 “(III) a handler (otherwise described in
13 clause (ii)) for any month during which—

14 “(aa) less than 25 percent of the total
15 quantity of fluid milk products physically re-
16 ceived at the plant of the handler (excluding
17 concentrated milk received from another plant
18 by agreement for other than Class I use) is dis-
19 posed of as route disposition or is transferred
20 in the form of packaged fluid milk products to
21 other plants; or

22 “(bb) less than 25 percent in aggregate of
23 the route disposition or transfers are in a mar-
24 keting area or areas located in one or more

1 States that require handlers to pay minimum
2 prices for raw milk purchases.”; and

3 (G) by amending paragraph (N) to read as
4 follows:

5 “(N) EXEMPTION FOR CERTAIN MILK
6 HANDLERS.—Notwithstanding any other provi-
7 sion of this section, no handler with distribution
8 of Class I milk products in the marketing area
9 described in Order No. 131 shall be exempt
10 during any month from any fluid milk differen-
11 tial requirement established by the Secretary
12 under this subsection if the total distribution of
13 Class I products during the preceding month of
14 any such handler’s own farm production ex-
15 ceeds 3,000,000 pounds.”; and

16 (2) by amending subsection (18) to read as fol-
17 lows:

18 “(18) FLUID MILK DIFFERENTIALS.—The Sec-
19 retary of Agriculture, in prescribing any term in any
20 marketing agreement or order, or amendment there-
21 to, relating to milk or its products, if such term is
22 to fix the differential to be paid to producers or as-
23 sociations of producers, shall fix such differential as
24 follows. Such differentials shall during the first year
25 after the effective date of the Dairy Pricing Deregula-

1 lation Act be equal to the differentials for milk used
2 for fluid purposes as they existed under federal milk
3 marketing orders on January 1, 2011, subject to all
4 location adjustments as they existed under federal
5 milk marketing orders on such date. Such differen-
6 tials shall in each successive year be reduced by an
7 amount equal to 20 percent of the differentials that
8 existed during the first year after the effective date
9 of such Act, and shall be discontinued in the fifth
10 year after the effective date of such Act.”.

11 (b) CONFORMING AMENDMENT.—Section 10(b)(2)(i)
12 of the Agricultural Adjustment Act (7 U.S.C.
13 610(b)(2)(i)), reenacted with amendments by the Agricul-
14 tural Marketing Agreement Act of 1937, is amended by
15 striking “each handler subject thereto” and inserting
16 “each fluid milk handler subject thereto and each non-
17 fluid milk handler which supplies milk to such fluid milk
18 handler”.

19 (c) NOTICE AND COMMENT.—The Secretary of Agri-
20 culture shall use the notice and comment procedures pro-
21 vided in section 553 of title 5, United States Code, to im-
22 plement the requirements of the amendments made by
23 subsection (a) of this section.

24 (d) SURVEYS.—

1 (1) IN GENERAL.—The Secretary of Agriculture
2 shall survey and publish on a regular basis data re-
3 garding the payments made by all handlers of milk
4 used for any purpose for milk purchased from pro-
5 ducers or associations of producers.

6 (2) BASES FOR PUBLICATION.—The Secretary
7 shall publish such data on a national weighted-aver-
8 age basis and on a regional basis with respect to as
9 many multi-state regions as the Secretary deter-
10 mines to be of practical use.

11 (3) MANDATORY PARTICIPATION.—Participa-
12 tion in such surveys by handlers shall be mandatory.

13 **SEC. 3. EFFECTIVE DATE.**

14 The amendments made by this Act shall be effective
15 on the first day of the first month beginning one year after
16 the date of the enactment of this Act.

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