

110TH CONGRESS
1ST SESSION

S. 1722

To amend the Agricultural Adjustment Act to require the Secretary of Agriculture to determine the price of all milk used for manufactured purposes, which shall be classified as Class II milk, by using the national average cost of production, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 27, 2007

Mr. SPECTER (for himself and Mr. CASEY) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Agricultural Adjustment Act to require the Secretary of Agriculture to determine the price of all milk used for manufactured purposes, which shall be classified as Class II milk, by using the national average cost of production, 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 “Federal Milk Mar-
5 keting Improvement Act of 2007”.

1 **SEC. 2. PRICES RECEIVED FOR MILK UNDER MILK MAR-**
 2 **KETING ORDERS.**

3 Section 8c(5)(B) of the Agricultural Adjustment Act
 4 (7 U.S.C. 608c(5)(B)), reenacted with amendments by the
 5 Agricultural Marketing Agreement Act of 1937, is amend-
 6 ed—

7 (1) in the first clauses (i) and (ii), by inserting
 8 “(based on the blended price of all milk covered by
 9 the order)” after “uniform prices” each place it ap-
 10 pears; and

11 (2) in clause (b) of the matter following the
 12 first clause (ii), by inserting “and the component
 13 value” after “quality”.

14 **SEC. 3. CLASS II MILK PRICING.**

15 Section 8c(5) of the Agricultural Adjustment Act (7
 16 U.S.C. 608c(5)), reenacted with amendments by the Agri-
 17 cultural Marketing Agreement Act of 1937, is amended
 18 by adding at the end the following:

19 “(P) CLASS II MILK PRICING.—

20 “(i) MINIMUM PRICE.—The Secretary
 21 shall base the minimum price for Class II
 22 milk on the average cost of producing all
 23 milk in the 48 contiguous States, as deter-
 24 mined by the Economic Research Service
 25 of the Department of Agriculture in ac-
 26 cordance with clause (ii) (referred to in

1 this subparagraph as the ‘national average
2 cost of production’).

3 “(ii) NATIONAL AVERAGE COST OF
4 PRODUCTION.—For purposes of this sub-
5 paragraph, the national average cost of
6 production shall equal the national average
7 of the operating cost and the allocated
8 overhead cost of producing all milk, less—

9 “(I) the opportunity cost of un-
10 paid labor for producing all milk; and

11 “(II) the cost of custom services,
12 as determined by the Secretary.

13 “(iii) SURVEY.—For purposes of car-
14 rying out clause (ii), the Secretary shall
15 survey producers and associations of pro-
16 ducers subject to Federal and State milk
17 marketing orders and in all unregulated
18 areas applicable to all milk.

19 “(iv) PRICE ANNOUNCEMENT.—

20 “(I) IN GENERAL.—Not later
21 than November 1 of each calendar
22 year, the Secretary shall announce the
23 minimum price for Class II milk for
24 the next calendar year, as determined
25 in accordance with clause (i).

1 “(II) ADJUSTMENTS.—Using the
2 most currently available national aver-
3 age cost of production, the Secretary
4 shall adjust the price announced
5 under subclause (I) for a calendar
6 year on April 1, July 1, and October
7 1 of the calendar year.

8 “(v) BASIC FORMULA PRICE.—

9 “(I) IN GENERAL.—The Sec-
10 retary shall use the Class II milk
11 price announced under clause (iv) as
12 the basic formula price for all Federal
13 and State milk marketing orders and
14 all unregulated milk production areas.

15 “(II) CLASS I MILK.—The price
16 of Class I milk in all Federal and
17 State milk marketing orders and all
18 unregulated milk production areas
19 shall be equal to—

20 “(aa) the basic formula
21 price under subclause (I); plus

22 “(bb) the opportunity cost of
23 unpaid labor for producing all
24 milk.

1 “(vi) ESTIMATION OF ANNUAL MILK
2 PRODUCTION AND DOMESTIC CONSUMP-
3 TION.—Not later than November 1 of each
4 calendar year and taking into consideration
5 the import projections for all milk prod-
6 ucts, the Secretary shall estimate the
7 quantity of all milk to be produced in the
8 48 contiguous States and marketed by pro-
9 ducers for commercial use during the next
10 12 months.

11 “(vii) INVENTORY MANAGEMENT PRO-
12 GRAM.—

13 “(I) IN GENERAL.—In any case
14 in which the dollar value of exported
15 milk products is equal to the dollar
16 value of imported milk products, the
17 Secretary shall carry out this clause
18 in a manner that is necessary to man-
19 age the inventory of all milk in the
20 United States.

21 “(II) MILK PRODUCTION TO-
22 TALS.—Not later than February 1 of
23 each calendar year, the Secretary
24 shall determine the total quantity of

1 all milk produced by each producer
2 during the preceding calendar year.

3 “(III) EXCESS PRODUCTION DE-
4 TERMINATION.—Not more than once
5 every 2 months, if the Secretary, act-
6 ing through the Commodity Credit
7 Corporation, has purchased the max-
8 imum quantity practicable of excess
9 milk and milk products, the Secretary
10 may determine whether an excess
11 quantity of milk and milk products is
12 being produced for the national do-
13 mestic market.

14 “(IV) REDUCTION IN PRICE RE-
15 CEIVED.—If the Secretary determines
16 under subclause (III) that there is ex-
17 cess production, the Secretary may
18 provide for a reduction in the price re-
19 ceived by producers for not more than
20 5 percent of all milk produced in the
21 48 contiguous States and marketed by
22 producers for commercial use.

23 “(V) AMOUNT.—The amount of
24 the reduction under subclause (IV) in
25 the price received by producers shall

1 not exceed half the minimum price of
2 Class II milk.

3 “(VI) ADDITIONAL REDUC-
4 TION.—If the Secretary determines
5 that the reduction described in sub-
6 clause (IV) is insufficient to reduce
7 excess production, subject to sub-
8 clauses (VII) and (VIII), the Sec-
9 retary may reduce the price received
10 by any producer that has increased
11 the production of all milk in a cal-
12 endar year as compared to the imme-
13 diately preceding calendar year.

14 “(VII) APPLICATION.—A reduc-
15 tion in price under subclause (VI)
16 shall apply only to the quantity of
17 milk produced in excess of the quan-
18 tity of milk produced during the pre-
19 vious calendar year.

20 “(VIII) NEW PRODUCER EXCEP-
21 TION.—A new producer, as defined by
22 the Secretary, may produce up to the
23 average annual production of milk
24 under the Federal or State milk mar-
25 keting order of the producer or the

1 unregulated area of the producer
2 without being subject to an additional
3 reduction under subclause (VI).

4 “(IX) APPEALS.—A producer
5 subject to an additional reduction
6 under subclause (VI) may appeal to
7 the Federal or State milk marketing
8 administrator to provide evidence that
9 the producer did not increase produc-
10 tion in the calendar year that the re-
11 duction was in effect when compared
12 to the immediately preceding calendar
13 year.

14 “(X) EXTRAORDINARY CIR-
15 CUMSTANCES.—In deciding an appeal
16 under subclause (IX), a Federal or
17 State milk marketing administrator
18 may take into consideration produc-
19 tion losses due to severe weather con-
20 ditions or severe disease outbreaks.

21 “(XI) COLLECTION.—Except as
22 provided in subclause (XII), reduc-
23 tions in price required under sub-
24 clause (IV) or (VI) shall be collected
25 by Federal and State milk marketing

1 administrators and timely remitted to
2 the Commodity Credit Corporation to
3 offset the cost of purchasing excess
4 milk products.

5 “(XII) COLLECTION IN UNREGU-
6 LATED AREAS.—Reductions in price
7 required for unregulated areas under
8 subclause (IV) or (VI) shall be col-
9 lected by the Secretary and timely re-
10 mitted to the Commodity Credit Cor-
11 poration to offset the cost of pur-
12 chasing excess milk products.

13 “(viii) PROHIBITION ON CERTAIN
14 CHARGES.—In carrying out this Act, the
15 Secretary shall not impose charges on pro-
16 ducers for the cost of hauling milk or the
17 conversion of raw milk to manufactured
18 products.

19 “(ix) RESPONSIBILITIES OF MILK
20 PURCHASING HANDLERS.—A milk handler
21 that purchases milk from a producer
22 shall—

23 “(I) assume title for the milk at
24 the time at which the milk is pumped
25 into a milk truck provided by or oth-

1 otherwise delivered to the milk handler;
2 and

3 “(II) incur all transportation
4 costs of the purchased milk.

5 “(x) APPLICABILITY.—This subpara-
6 graph applies to all producers and handlers
7 of milk in the 48 contiguous States.”.

8 **SEC. 4. AMENDMENTS TO FEDERAL MILK MARKETING OR-**
9 **DERS.**

10 Section 8c(17) of the Agricultural Adjustment Act (7
11 U.S.C. 608c(17)), reenacted with amendments by the Ag-
12 ricultural Marketing Agreement Act of 1937, is amended
13 by adding at the end the following: “In the case of an
14 order covering milk or milk products, disapproval of an
15 amendment to the order shall not be considered dis-
16 approval of the order or of other terms of the order.”.

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