

**CHAPTER 1083**

S.B. No. 1248

AN ACT

relating to the payment of dairy farmers by milk processors who purchase raw milk.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Title 6, Agriculture Code, is amended by adding Subtitle D to read as follows:

***SUBTITLE D. DAIRY PRODUCTS***

***CHAPTER 181. PAYMENT FOR RAW MILK***

***Sec. 181.001. DEFINITIONS. In this chapter:***

**3687**

(1) "Cooperative association" means any group in which farmers act together in the market preparation, processing, or marketing of farm products or any association organized under Chapter 52 of this code.

(2) "Dairy farmer" means a farmer engaged in the business of producing milk for sale to milk processors or to a cooperative association of which the dairy farmer is a member.

(3) "Milk processor" means a person who operates a milk, milk products, or frozen desserts processing plant that is located in Texas.

(4) "Purchase price" means an amount of money, based on estimated butterfat content at the time of delivery, that a milk processor agrees to pay a dairy farmer for a purchase of raw milk.

**Sec. 181.002. PAYMENTS HELD IN TRUST.** (a) Except as provided by Subsection b) of this section, a milk processor shall hold in trust all payments received from the sale of milk for the benefit of the dairy farmer from whom the milk was purchased until the dairy farmer has received full payment of the purchase price for the milk.

(b) A milk processor is not required to maintain the payments in trust when:

(1) payment of the purchase price is not received, and the dairy farmer does not give written notice to the milk processor, by the end of the 30th day after the final date for payment of the purchase price as specified by Section 181.003 of this code; or

(2) a payment instrument received by the dairy farmer is dishonored, and the dairy farmer does not give written notice to the milk processor, by the end of the 15th business day after the day that the notice of dishonor was received.

**Sec. 181.003. TIME AND METHOD OF PAYMENT FOR PURCHASE.** A milk processor may not purchase raw milk from a dairy farmer unless:

(1) payment of the purchase price is made according to the provisions prescribed by an applicable federal milk marketing order;

(2) any additional provisions are agreed on by both the dairy farmer or his agent and the milk processor; and

(3) the medium of exchange used is cash, a check for the full amount of the purchase price, or a wire transfer of money in the full amount.

**Sec. 181.004. COOPERATIVE TRANSACTIONS.** This chapter does not apply to transactions between a cooperative association, while acting as a marketing agent, and its members.

**Sec. 181.005. DAMAGES.** A milk processor who fails to pay for raw milk as provided by this chapter is liable to the dairy farmer for:

(1) the purchase price of the raw milk;

(2) interest on the purchase price at the highest legal rate, from the date possession is transferred until the date the payment is made in accordance with this chapter; and

(3) a reasonable attorney's fee for the collection of the payment.

**SECTION 2.** This Act takes effect September 1, 1987, and applies only to raw milk purchased on or after that date.

**SECTION 3.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on April 15, 1987, by a viva-voce vote; and that the Senate concurred in House amendment on May 20, 1987, by a viva-voce vote. Passed the House, with amendment, on May 15, 1987, by a non-record vote.

Approved June 20, 1987.

Effective Sept. 1, 1987.