

106TH CONGRESS
2D SESSION

S. 2773

AN ACT

To amend the Agricultural Marketing Act of 1946 to enhance dairy markets through dairy product mandatory reporting, 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 Market En-
5 hancement Act of 2000”.

1 **SEC. 2. DAIRY PRODUCT MANDATORY REPORTING.**

2 The Agricultural Marketing Act of 1946 (7 U.S.C.
3 1621 et seq.) is amended by adding at the end the fol-
4 lowing:

5 **“Subtitle C—Dairy Product**
6 **Mandatory Reporting**

7 **“SEC. 271. PURPOSE.**

8 “The purpose of this subtitle is to establish a pro-
9 gram of information regarding the marketing of dairy
10 products that—

11 “(1) provides information that can be readily
12 understood by producers and other market partici-
13 pants, including information with respect to prices,
14 quantities sold, and inventories of dairy products;

15 “(2) improves the price and supply reporting
16 services of the Department of Agriculture; and

17 “(3) encourages competition in the marketplace
18 for dairy products.

19 **“SEC. 272. DEFINITIONS.**

20 “In this subtitle:

21 “(1) DAIRY PRODUCTS.—The term ‘dairy prod-
22 ucts’ means manufactured dairy products that are
23 used by the Secretary to establish minimum prices
24 for Class III and Class IV milk under a Federal
25 milk marketing order issued under section 8c of the
26 Agricultural Adjustment Act (7 U.S.C. 608c), reen-

1 acted with amendments by the Agricultural Mar-
2 keting Agreement Act of 1937.

3 “(2) MANUFACTURER.—The term ‘manufac-
4 turer’ means any person engaged in the business of
5 buying milk in commerce for the purpose of manu-
6 facturing dairy products.

7 “(3) SECRETARY.—The term ‘Secretary’ means
8 the Secretary of Agriculture.

9 **“SEC. 273. MANDATORY REPORTING FOR DAIRY PRODUCTS.**

10 “(a) ESTABLISHMENT.—The Secretary shall estab-
11 lish a program of mandatory dairy product information
12 reporting that will—

13 “(1) provide timely, accurate, and reliable mar-
14 ket information;

15 “(2) facilitate more informed marketing deci-
16 sions; and

17 “(3) promote competition in the dairy product
18 manufacturing industry.

19 “(b) REQUIREMENTS.—

20 “(1) IN GENERAL.—In establishing the pro-
21 gram, the Secretary shall only—

22 “(A)(i) subject to the conditions described
23 in paragraph (2), require each manufacturer to
24 report to the Secretary information concerning

1 the price, quantity, and moisture content of
2 dairy products sold by the manufacturer; and

3 “(ii) modify the format used to provide the
4 information on the day before the date of enact-
5 ment of this subtitle to ensure that the infor-
6 mation can be readily understood by market
7 participants; and

8 “(B) require each manufacturer and other
9 person storing dairy products to report to the
10 Secretary, at a periodic interval determined by
11 the Secretary, information on the quantity of
12 dairy products stored.

13 “(2) CONDITIONS.—The conditions referred to
14 in paragraph (1)(A)(i) are that—

15 “(A) the information referred to in para-
16 graph (1)(A)(i) is required only with respect to
17 those package sizes actually used to establish
18 minimum prices for Class III or Class IV milk
19 under a Federal milk marketing order;

20 “(B) the information referred to in para-
21 graph (1)(A)(i) is required only to the extent
22 that the information is actually used to estab-
23 lish minimum prices for Class III or Class IV
24 milk under a Federal milk marketing order;

1 “(C) the frequency of the required report-
2 ing under paragraph (1)(A)(i) does not exceed
3 the frequency used to establish minimum prices
4 for Class III or Class IV milk under a Federal
5 milk marketing order; and

6 “(D) the Secretary may exempt from all
7 reporting requirements any manufacturer that
8 processes and markets less than 1,000,000
9 pounds of dairy products per year.

10 “(c) ADMINISTRATION.—

11 “(1) IN GENERAL.—The Secretary shall pro-
12 mulgate such regulations as are necessary to ensure
13 compliance with, and otherwise carry out, this sub-
14 title.

15 “(2) CONFIDENTIALITY.—

16 “(A) IN GENERAL.—Except as otherwise
17 directed by the Secretary or the Attorney Gen-
18 eral for enforcement purposes, no officer, em-
19 ployee, or agent of the United States shall
20 make available to the public information, statis-
21 tics, or documents obtained from or submitted
22 by any person under this subtitle other than in
23 a manner that ensures that confidentiality is
24 preserved regarding the identity of persons, in-

cluding parties to a contract, and proprietary business information.

“(B) RELATION TO OTHER REQUIREMENTS.—Notwithstanding any other provision of law, no facts or information obtained under this subtitle shall be disclosed in accordance with section 552 of title 5, United States Code.

“(3) VERIFICATION.—The Secretary shall take such actions as the Secretary considers necessary to verify the accuracy of the information submitted or reported under this subtitle.

“(4) ENFORCEMENT.—

“(A) UNLAWFUL ACT.—It shall be unlawful and a violation of this subtitle for any person subject to this subtitle to willfully fail or refuse to provide, or delay the timely reporting of, accurate information to the Secretary in accordance with this subtitle.

“(B) ORDER.—After providing notice and an opportunity for a hearing to affected persons, the Secretary may issue an order against any person to cease and desist from continuing any violation of this subtitle.

“(C) APPEAL.—

1 “(i) IN GENERAL.—The order of the
2 Secretary under subparagraph (B) shall be
3 final and conclusive unless an affected per-
4 son files an appeal of the order of the Sec-
5 retary in United States district court not
6 later than 30 days after the date of the
7 issuance of the order.

8 “(ii) FINDINGS.—A finding of the
9 Secretary under this paragraph shall be set
10 aside only if the finding is found to be un-
11 supported by substantial evidence.

12 “(D) NONCOMPLIANCE WITH ORDER.—

13 “(i) IN GENERAL.—If a person sub-
14 ject to this subtitle fails to obey an order
15 issued under this paragraph after the
16 order has become final and unappealable,
17 or after the appropriate United States dis-
18 trict court has entered a final judgment in
19 favor of the Secretary, the United States
20 may apply to the appropriate United
21 States district court for enforcement of the
22 order.

23 “(ii) ENFORCEMENT.—If the court
24 determines that the order was lawfully
25 made and duly served and that the person

1 violated the order, the court shall enforce
2 the order.

3 “(iii) CIVIL PENALTY.—If the court
4 finds that the person violated the order,
5 the person shall be subject to a civil pen-
6 alty of not more than \$10,000 for each of-
7 fense.

8 “(5) FEES.—The Secretary shall not charge or
9 assess a user fee, transaction fee, service charge, as-
10 sessment, reimbursement fee, or any other fee under
11 this subtitle for—

12 “(A) the submission or reporting of infor-
13 mation;

14 “(B) the receipt or availability of, or access
15 to, published reports or information; or

16 “(C) any other activity required under this
17 subtitle.

18 “(6) RECORDKEEPING.—Each person required
19 to report information to the Secretary under this
20 subtitle shall maintain, and make available to the
21 Secretary, on request, original contracts, agree-
22 ments, receipts, and other records associated with
23 the sale or storage of any dairy products during the
24 2-year period beginning on the date of the creation
25 of the records.

1 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated such sums as are nec-
3 essary to carry out this section.”.

Passed the Senate October 25 (legislative day, Sep-
tember 22), 2000.

Attest:

Secretary.

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