

EXTENSIONS OF REMARKS

MILK REGULATORY EQUITY ACT OF 2005

SPEECH OF

HON. DEVIN NUNES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 28, 2006

Mr. NUNES. Mr. Speaker, I rise today in support of the Milk Regulatory Equity Act, S. 2120. This important legislation was first introduced in 2003 and has been subjected to extensive review both inside and outside of Congress. I am satisfied that every effort has been made to craft a measure that is fair and have personally participated in efforts over the past three years to make certain that this legislation does exactly what we say it will do. We have worked collaboratively with every corner of the U.S. dairy industry and have formed a coalition that is unprecedented in this sector of the economy. Indeed, processors and dairy farmers from throughout the country, each with significantly varying local and regional interests, have come together to share with us the urgent need to address this issue. I am pleased that we are responding and would like to thank Chairman GOODLATTE and Ranking Member PETERSON and their staff for their hard work.

S. 2120 is about fairness, Mr. Speaker. The bill responds to fundamental questions of regulatory equity that only Congress can address. The questions are simple. Should producer-handlers in Arizona be exempted from our Nation's regulatory system with no regard for their impact on our system of pooling and pricing, as established by Congress? Should producer-handlers be permitted to continue to operate free of regulation, while collecting Federal subsidies and benefiting from Farm Bill programs? Should a State regulatory system, such as California, be subjected to unregulated shipments of dairy from States participating in the Federal milk marketing orders? Clearly, and with a strong bipartisan statement, Congress must say no. We must support passage of S. 2120.

Mr. Speaker, I understand that anyone in business who has found a lucrative regulatory loophole would be inclined to fight for it. However, we in Congress need to look at the bigger picture. Those special interests that have resisted this legislation are doing so because they are gaming the system. They owe their success to the very program they claim to loath. Their ability to operate under preferential treatment in a highly regulated industry, while taking government subsidies, is not free market capitalism.

It may be asked, "How are we achieving fairness in this bill?" Mr. Speaker, we have worked diligently to find a solution that recognizes the realities of our dairy programs today. In Arizona, we establish a three million pound per month cap on producer-handlers. This will allow small mom and pop businesses to oper-

ate as they have since the 1930s. However, it will regulate large dairy operations that have been found to have an impact on our system of pooling and pricing. We also address those handlers that are escaping regulation by means of locating their facilities in federally regulated regions, while doing business exclusively in State regulated regions. This activity seriously undermines both the Federal and State regulatory systems, by diverting revenue away from the pool and disadvantaging regulated businesses.

Mr. Speaker, State and Federal milk marketing orders have existed side-by-side since Congress first enacted the Federal milk marketing orders in the 1930s. They promote a stable and affordable fluid milk supply and were intended to regulate the industry equitably. However, the discovery of an intra-order loophole has encouraged the growth of unregulated handlers in the marketplace. We need our Federal and State regulatory systems to interact in a seamless way, so that farmers and processors are not disadvantaged or discriminated against by our laws. Under S. 2120, Congress will allow the regulation of processors exploiting the intra-order loophole. They will be regulated based on the rules of the Federal milk marketing order where their plant is physically located. This won't place them at a disadvantage, it will restore equity to our dairy program.

Mr. Speaker, we have 70 years of history reflecting Congressional intent for unregulated handlers to become regulated when they begin to have an impact on the regulated market.

It has been suggested by opponents that S. 2120 "targets" an individual or individuals. Nothing could be further from the truth. We are merely closing regulatory loopholes that can be exploited by anyone. We are thus dealing with a general situation as stated by the Gentleman from Virginia and Chairman of the Agriculture Committee.

Congress has been advised by the Department of Agriculture that there may be and indeed likely is, at least one other business entity that going forward could, based upon present business practices, find itself subject to these provisions. And that is the point. The loopholes that presently exist can be exploited by anyone. By closing the loopholes, we address the situations at hand and prevent their use by those who could (and likely would) exploit these loopholes in the future.

It must also be emphasized that the provisions of S. 2120 are entirely consistent with the legislative history dealing with producer-handlers and the need to monitor their potential negative impact on fair competition in the markets in which they operate.

When the predecessor to the Agricultural Marketing Agreement Act (the Agricultural Adjustment Act) was passed in 1935, a Manager of the bill on the House floor stated that the United States Department of Agriculture had the power and the duty to regulate producers

who were also handlers when they were large enough to disrupt the competitiveness of the market in which they operated.

Then, in 1965, after losing three lawsuits in which they made the same arguments they make against S. 2120, producer-handlers sought an amendment on the House floor to the 1965 Farm Bill which would have granted them a limited regulatory exemption from the Agricultural Marketing Agreement Act. That amendment was defeated. The Managers' Report explicitly states that producer-handlers who are large enough to disrupt the markets in which they operate can be regulated.

Mr. Speaker, as I have said before, the Milk Regulatory Equity act is about fairness. It's about equitable application of our laws. The hard working dairy farmers in Arizona have witnessed a steady decline in their pool since unregulated handlers began to flourish. They deserve to be treated fairly by their government and should never be placed in a situation where government regulations unintentionally disadvantage them in the marketplace. Regulated processors in Arizona are no less efficient or innovative than their unregulated competitors. They are simply unable to compete with businesses that don't have to play by the rules. This situation is wrong and must be resolved by Congress.

Without changes to the law to close existing loopholes, California dairy farmers are equally disadvantaged and so are our State's processors. When unregulated milk is shipped into the California marketplace from the Federal milk marketing orders, the impact is not just felt on dairy farms and in processing plants but in the homes of the families whose livelihoods depend on this industry.

Mr. Speaker, it is highly offensive to me that California's losses, including dairy industry jobs, are not based on our competition's superior product quality or innovative practices. These losses are because loopholes in Federal law are allowing unregulated handlers to game the system. Let me be clear: unregulated handlers are not promoting market competition. They are driving out competition. They owe their success to the dairy programs and to the advantage they have found in loopholes. Some of them collect large subsidies from the Federal Government, take full advantage of Farm Bill programs and then demand to be treated differently than the rest of the dairy industry.

No Mr. Speaker, we cannot allow this to continue. This issue is all about fairness. It's about resolving the current practice of unequal application of the law. I hear about the challenges my dairy farmers face every time I go home and I know first hand how frustrated and disappointed farmers and processors are with the current situation. They are looking to us to close these loopholes and restore free market principles and fair regulation to the dairy industry.

Congress must pass this legislation today and I ask for your support.

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