

CHAPTER 229

(HB 386)

AN ACT relating to farm milk.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 260.775 is amended to read as follows:

As used in KRS 260.775 to 260.845, unless the context requires otherwise:

- (1) **"Board"** means the Kentucky Milk Handlers Advisory Board~~["Buyer" shall include any person, partnership, corporation, association, organization, company, firm, bargaining agent, receiving station, milk plant, or agent thereof who receives milk or cream from producers and pays the producers for it on basis of volume, or weight, and test, except that it does not include persons who buy milk or cream for their own consumption];~~
- (2) **"Buy[.]"** means~~["buying," or "bought" shall mean]~~ the receiving of milk~~[or cream]~~ from producers or their agents and paying for *the milk*~~[it]~~ on *the* basis of volume *and test*, or weight and test;
- (3) **"Director"** means the director of the Agricultural Experiment Station, College of Agriculture, University of Kentucky, or his or her designee~~["Milk tester" shall include any person who tests milk or cream, bought by buyers from producers, to determine the constituents or quality of such milk or cream and uses, or submits for use, these tests in determining the price paid for it];~~
- (4) **"Handler"** means any person who receives, bargains, brokers, or issues payment for or purchases milk from Kentucky permitted producers or the permitted producers agents~~["Sampler weigher" shall include any person who samples, weighs, or measures milk or cream received by buyers from producers and uses or submits for use, these tests or weights in determining the price paid for it];~~
- (5) **"Laboratory"** means the location or work area where milk analysis or testing takes place~~["License to buy" means the license issued to buyers of milk or cream purchased from producers or their agents on basis of its volume, or weight and tests];~~
- (6) **"Laboratory license"** means the license issued to a milk laboratory~~["License to test" means the license issued to milk testers];~~
- (7) **"License to handle"** means the license is issued to a handler of milk;
- (8) "License to sample and weigh" means the license issued to a milk sampler-weigher; ~~{(8) "Board" means the creamery license board;}~~
- (9) **"License to test"** means the license issued to a milk tester~~["Director" means the director of the Agricultural Experiment Station, College of Agriculture, University of Kentucky, or his designee];~~
- (10) **"Location"** means each separate business place where permitted producers' milk or milk samples are received, stored, or processed, or where records pertaining to permitted producers' milk tests or payments are kept~~["Producer" means any person, partnership, corporation, association, organization, or concern keeping milk cows for the production of milk or cream for sale to a milk buyer];~~

- (11) **"Milk"** means the lacteal secretion and all of its components, obtained by the milking of animals~~["Buying location" means each separate business place where nonpackaged milk or cream is received by buyers such as milk receiving stations, and milk plants; transfer stations are not considered buying locations];~~
- (12) **"Milk importer"** means any person who delivers milk from producers outside the Commonwealth of Kentucky to processors in this state~~["Nonpackaged milk" means milk as it is usually received from the farm before it is processed and put in bottles, cartons or other containers for consumer use];~~
- (13) **"Milk processor"** means any location where milk or milk products are collected, handled, processed, stored, pasteurized, bottled, or prepared for distribution by a milk handler~~["Standard testware" means all testing equipment inspected and approved by the director for use in Kentucky and meeting all specifications of the National Bureau of Standards];~~
- (14) **"Milk receiving station"** means any location where producers' raw farm milk is collected, handled, or stored by a milk handler~~["Transfer station" means any place, premise, or establishment where farm bulk milk is transferred directly from one transport tank to another and producers' bulk tank milk samples are collected, handled, stored, and transported to a laboratory for analysis];~~
- (15) **"Permitted producer"** means any producer issued a permit by the Kentucky Cabinet for Health Services to offer milk for sale~~["Milk equivalent" means the amount of whole milk required to make other dairy products; thus, to convert milkfat to milk equivalent, multiply the pounds of milkfat by twenty five (25), for four percent (4%) milk];~~
- (16) **"Person"** shall mean any individual, bargaining agent, broker, processor, milk plant operator, partnership, cooperation, concern, corporation, organization, company, firm, trustee, association, or agent thereof~~["Milk receiving station" means any place, premise, or establishment where producers' raw farm milk is collected, handled, and stored by a milk buyer];~~
- (17) **"Producer"** means any person keeping animals for the production of milk~~["Milk plant" means any place, premise, or establishment where milk or milk products are collected, handled, processed, stored, pasteurized, bottled, or prepared for distribution by a milk buyer];~~
- (18) **"Record"** means any information relating to milk weights, tests, transfers, purchases, receipts, and sales~~["Transfer station license" means the license issued to operate a transfer station];~~
- (19) **"Sampler-weigher"** means any person who samples, weighs, or measures milk from producers and submits these samples, weights, or measurements for use in determining the price paid for milk;
- (20) **"Test"** means to analyze a milk sample to determine the amount of a milk component or to determine milk quality;
- (21) **"Tester"** means any person who tests milk from permitted producers to determine its components or quality, or submits these tests for use in determining the price paid for milk;
- (22) **"Transfer station"** means any location where farm bulk milk is transferred directly from one (1) tank to another and producers' milk samples are collected, handled, stored, and transported to a laboratory for analysis; and

- (23) *"Transfer station license" means the license issued to operate a transfer station*~~["Person" shall mean any individual, milk plant operator, partnership, corporation, company, firm, trustee, or association].~~

SECTION 2. A NEW SECTION OF KRS 260.775 TO 260.845 IS CREATED TO READ AS FOLLOWS:

- (1) *The requirements and prohibitions of KRS 260.775 to 260.845 shall not apply to persons who buy milk for their own consumption.*
- (2) *It is unlawful for any person who is not licensed under KRS 260.775 to 260.845 to transact business with a permitted producer of this state.*

SECTION 3. A NEW SECTION OF KRS 260.775 TO 260.845 IS CREATED TO READ AS FOLLOWS:

Each laboratory location where permitted producers' milk is tested shall be licensed. Application for a license shall be made to the director. The license fee provided for in Section 18 of this Act shall accompany the application. Each licensee shall notify the director, in writing, within thirty (30) days of a change of address.

SECTION 4. A NEW SECTION OF KRS 260.775 TO 260.845 IS CREATED TO READ AS FOLLOWS:

All milk importers who deliver milk to processors in this state shall be licensed or permitted to sample and weigh milk by the state from which the milk originated and shall comply with KRS 260.775 to 260.845.

SECTION 5. A NEW SECTION OF KRS 260.775 TO 260.845 IS CREATED TO READ AS FOLLOWS:

Each transfer station location where permitted producers' milk is handled shall be licensed. Application for a license shall be made to the director. The license fee provided for in Section 18 of this Act shall accompany the application. Each licensee shall notify the director, in writing, within thirty (30) days of a change of address.

Section 6. KRS 260.795 is amended to read as follows:

Each location that handles permitted producers' milk in accordance with KRS 260.775 to 260.845 shall obtain a license to handle from the director. Application for a license to handle shall be made to the director. The license fee provided for in Section 18 of this Act shall accompany the application. Each licensee shall notify the director, in writing, within thirty (30) days of a change of address~~[Every milk plant, milk receiving station or other milk processing or manufacturing plant or person, or agent, firm, company, association or corporation buying milk or cream from producers or their agents shall secure and hold a license to buy for each buying location where such milk and cream is received. Application for a license shall be made to the director, the application to be accompanied by the license fee provided for in KRS 260.815. Upon receipt of the application and fee, the director shall issue to the buyer a license to buy milk or cream provided the buyer is in compliance with the provisions of KRS 260.775 to 260.845 and the regulations relating to the sampling, weighing, testing or buying of milk or cream and the handling, storage, and transportation of producers' milk samples as may be issued by the director].~~

Section 7. KRS 260.800 is amended to read as follows:

Each person who tests milk from permitted producers shall obtain a license to test. Application for a license shall be made to the director. The license fee provided for in Section 18 of this Act shall accompany the application. All applicants shall demonstrate their proficiency in testing by satisfactorily passing an examination prescribed by the director. Prior to taking an examination for a license, an applicant shall obtain a temporary license. Each licensee shall notify the director, in writing, within thirty (30) days of a change of address~~[(1) — All persons who test milk or cream bought by buyers from producers shall secure and hold a license to test.~~

~~(2) — Any applicant who tests milk or cream bought by buyers from producers shall demonstrate his proficiency in testing by satisfactorily passing an examination prescribed by the director.~~

~~(3) — Prior to taking an examination for a license an applicant may apply for and secure a temporary license. Application for a temporary license to test shall be on a form prescribed by the director and accompanied by the license fee provided for in KRS 260.815].~~

Section 8. KRS 260.805 is amended to read as follows:

Each person who samples and weighs milk from permitted producers shall obtain a license to sample and weigh. Application for a license shall be made to the director. The license fee provided for in Section 18 of this Act shall accompany the application. Applicants who sample and weigh milk from permitted producers shall attend formal training and satisfactorily pass an examination prescribed by the director. Prior to taking an examination for a license, an applicant shall obtain a temporary license. Each licensee shall notify the director, in writing, within thirty (30) days of a change of address~~[(1) — All persons who weigh, measure and sample milk or cream bought by buyers from producers shall secure and hold a license to sample and weigh. Application for such license shall be made on a form prescribed by the director and accompanied by the license fee provided for in KRS 260.815. Upon receipt of the application and fee, the director may issue to the sampler weigher a temporary license to sample and weigh; then after the applicant has attended formal training and successfully passed a written examination, a license to sample and weigh milk and cream may be issued, provided that the sampler weigher is in compliance with the provisions of KRS 260.775 to 260.845 and such regulations relating to weighing, measuring, and sampling of milk and cream as may be issued by the director.~~

~~(2) — All persons who transfer milk from farm bulk milk tanks to bulk tank trucks for transporting to a buying location, such as a milk plant or receiving station or to a transfer station, shall secure and hold a license to sample and weigh].~~

SECTION 9. A NEW SECTION OF KRS 260.775 TO 260.845 IS CREATED TO READ AS FOLLOWS:

It shall be unlawful for any owner or operator of any laboratory to;

- (1) Operate a laboratory without having a laboratory license;*
- (2) Fail to comply with administrative regulations promulgated by the director for the proper transporting, handling, storage, and testing of permitted producers' milk samples;*
- (3) Manipulate, substitute, or falsify any producer's milk samples, test results, or records,*
- (4) Test milk samples from permitted producers that were not obtained by licensed samplerweighers;*
- (5) Employ, engage, or obtain the services of a person to test permitted producers' milk samples who does not have a license to test; or*

(6) ***Hinder or obstruct any authorized person in the performance of their duties under KRS 260.775 to KRS 260.845.***

Section 10. KRS 260.780 is amended to read as follows:

It shall be unlawful for ***a handler***~~[any buyer]~~ of milk~~[or cream]~~ in this state to:

- (1) Receive ***or***~~[and]~~ buy milk~~[or cream]~~ from ***permitted*** producers or their agents without obtaining a license for each~~[buying]~~ location where~~[such]~~ milk~~[or cream]~~ is received ***or handled***;
- (2) Receive milk ***that***~~[or cream which]~~ is paid for on the basis of weight or volume without having it sampled and weighed or measured by a licensed sampler-weigher;
- (3) Manipulate weights, measurements, or tests ***that are to be used as a basis to purchase milk***~~;~~ that is, to pay for milk or cream on the basis of any weight or measurement or test that is not the true and legal weight or test];
- (4) ~~[Manipulate or falsify records or to]~~ Use ***false or incorrect*** records of weights or tests as ***a*** basis for payment~~[that are not correct and legal weights, measurements or tests]~~;
- (5) Receive milk~~[or cream]~~ purchased from ***permitted*** producers by a milk ***handler***~~[receiving station or milk plant]~~ that does not have a license to ***handle***~~[buy]~~;
- (6) Use weighing, mixing, sampling, or testing equipment which is inaccurate or nonstandard;
- (7) Fail to comply with ***administrative***~~[such]~~ regulations for weighing, measuring, sampling, and testing milk~~[or cream as may be]~~ issued by the director;
- (8) Fail to keep records of weights and tests as required by ***administrative*** regulation or ***fail*** to make such records available for inspection by the director~~[or his representative]~~~~;~~~~[or]~~
- (9) Receive milk which is paid for on the basis of tests without having it tested by a licensed tester;
- (10) ***Fail to notify the director in writing of any knowledge of an inaccurately calibrated bulk milk tank; or***
- (11) ***Hinder or obstruct any authorized person in the performance of their duties under KRS 260.775 to 260.845.***

Section 11. KRS 260.785 is amended to read as follows:

It shall be unlawful for any milk sampler-weigher~~[either for himself, or as officer, servant, agent, or employee of any person, firm, company, association, or corporation in this state]~~ to:

- (1) Sample, weigh, or measure milk~~[or cream]~~ from~~[farm]~~ bulk ***milk*** tanks without obtaining a license to sample and weigh;
- (2) Inaccurately sample, weigh, or measure milk~~[or cream]~~;
- (3) Fail to comply with ***administrative***~~[such]~~ regulations ***promulgated by the director*** for the ***proper*** sampling, weighing, or measuring of milk~~[or cream]~~ and handling, storage, and transportation of ***permitted*** producers' milk samples~~[as may be issued by the director]~~;
- (4) Employ, engage, or obtain the services of a person who does not have a sampler-weigher license to~~[weigh and]~~ sample ***and weigh***~~[farm bulk]~~ milk;
- (5) Manipulate or falsify any producer weights, records, or samples for testing;

- (6) *Fail to notify the director in writing of any knowledge of inaccurately calibrated bulk milk tanks; or*
- (7) *Hinder or obstruct any authorized person in the performance of their duties under KRS 260.775 to 260.845.*

Section 12. KRS 260.790 is amended to read as follows:

It shall be unlawful for any milk tester~~[in this state]~~ to:

- (1) Test milk~~[or cream]~~ bought from *permitted* producers without obtaining a license to test;
- (2) Inaccurately test producers' milk~~[or cream]~~ samples;
- (3) Use inaccurate, nonstandard, or improperly calibrated equipment in testing~~[of]~~ milk~~[or cream]~~;
- (4) Manipulate or falsify tests or records;
- (5) Fail to comply with *administrative*~~[such]~~ regulations *promulgated by the director* for *proper sampling, weighing, or testing of milk; or*~~[weighing and sampling as may be issued by the director]~~
- (6) *Hinder or obstruct any authorized person in the performance of their duties under KRS 260.775 to 260.845.*

Section 13. KRS 260.793 is amended to read as follows:

It shall be unlawful for any owner or operator of any transfer station to:

- (1) Operate a transfer station without having a transfer station~~[operator's]~~ license;
- (2) Fail to comply with *administrative* regulations *promulgated*~~[issued]~~ by the director for the proper storage, handling, and *transport*~~[transporting]~~ of producers' milk samples while at the transfer station and en route to the testing laboratory;
- (3) Manipulate, substitute, or falsify any producer milk weights or milk samples;
- (4) Transfer milk, samples, or records at a transfer station without having a current samplerweigher's license;
- (5) Transfer milk that has not been~~[weighed and]~~ sampled *and weighed* at the farm by a licensed sampler-weigher;
- (6) *Fail to notify the director in writing of any knowledge of an inaccurately calibrated bulk milk tank; or*
- (7) *Hinder or obstruct any authorized person in the performance of his or her duties under KRS 260.775 to 260.845.*

SECTION 14. A NEW SECTION OF KRS 260.775 TO 260.845 IS CREATED TO READ AS FOLLOWS:

- (1) *Every licensee shall keep complete records, as defined in Section 1 of this Act, for a period of two (2) years.*
- (2) *Each licensed location shall keep records of all its transactions at the location.*
- (3) *All records shall be accessible for inspection by the director during customary business hours.*

SECTION 15. A NEW SECTION OF KRS 260.775 TO 260.845 IS CREATED TO READ AS FOLLOWS:

- (1) *Each milk handler and laboratory shall, as required by the director, make and file reports for all matters of which a record is required to be kept.*
- (2) *No information furnished to the director under this section shall be disclosed in a way to divulge the operation of any person.*
- (3) *It shall be unlawful for any person to use to his own advantage, or reveal to a person other than the director, officers of the Kentucky Agricultural Experiment Station, or the courts when relevant in any judicial proceedings, any information acquired under the authority of KRS 260.775 to 260.845, concerning any method, records, formulations, processes, or financial information which as a trade secret is entitled to protection.*
- (4) *This prohibition shall not be deemed as prohibiting the director, or his duly authorized agent, from exchanging information of a regulatory nature with duly appointed officials of the United States Government, or of other states, who are similarly prohibited by law from revealing this information.*

SECTION 16. A NEW SECTION OF KRS 260.775 TO 260.845 IS CREATED TO READ AS FOLLOWS:

Permitted producers' bulk milk tanks shall be accurately calibrated upon installation. Bulk milk tank calibrations shall be evaluated for accuracy after the effective date of this Act by the Kentucky Department of Agriculture or at the request of the director or the permitted producer.

SECTION 17. A NEW SECTION OF KRS 260.775 TO 260.845 IS CREATED TO READ AS FOLLOWS:

- (1) *For the financing of the producer's share of this program, all handlers who issue payments to Kentucky permitted producers shall deduct an inspection fee at the rate of one-half cent (\$0.005) per hundredweight from the producer's payment and shall transfer these funds to the director.*
 - (a) *The deduction shall be identified as "Inspection Fee".*
 - (b) *Each handler shall file on forms approved by the director, not later than the last day of January, April, July, and October of each year, a quarterly statement, setting forth the pounds of milk on which payment was issued to permitted producers during the preceding calendar quarter, and upon filing the statement shall transfer the inspection fee payment.*
 - (c) *Each handler shall keep the records required by the director to accurately indicate the amount of milk for which payments were issued to permitted producers.*
- (2) *For the financing of the processors' share of this program, handlers shall pay to the director an inspection fee at the rate of one-half cent (\$0.005) per hundredweight on all milk received by processor locations in Kentucky.*
 - (a) *Each handler shall file on forms approved by the director, not later than the last day of January, April, July, and October of each year, a quarterly statement, setting forth the pounds of all milk received by processor locations in Kentucky during the preceding calendar quarter, and upon filing the statement shall make the inspection fee payment.*

- (b) *Each handler shall keep the records required by the director to accurately indicate the amount of milk delivered to or received by processor locations in Kentucky.*
 - (c) *This fee shall not in any way be passed back to producers. If the fee is found to have been passed back to producers, violators may be penalized as set forth in Section 24 of this Act, along with other actions that may be taken by the director under KRS 260.775 to 260.845.*
- (3) *Inspection fees that are due and have not been remitted to the director within fifteen (15) days following the due date shall be assessed a penalty fee as set forth in KRS 260.992. Assessment of this penalty fee shall not prevent the director from taking other actions under KRS 260.775 to 260.845.*
 - (4) *Fees collected shall be used to help pay for a portion of the costs of inspection, analysis, and other expenses necessary for the administration of KRS 260.775 to 260.845.*

Section 18. KRS 260.815 is amended to read as follows:

The license fees to be paid for respective licenses provided for in KRS 260.795, 260.800, and 260.805 shall be per year or any portion of a year with the license year commencing July 1 and ending June 30. No license may be transferred or assigned. The license fees shall be as follows:

- (1) *License to handle*~~[Buyers, milk plants and receiving stations]:~~ For each *location*~~[milk plant, milk receiving station, person, agent, firm, company, association, or corporation an amount determined according to the following schedule]:~~
 - (a) One hundred twenty-five dollars (\$125) per license for those *handling*~~[buying]~~ less than *ten*~~[one]~~ million *(10,000,000)*~~[(1,000,000)]~~ pounds of milk~~[or milk equivalent]~~ during the past year; *or*
 - (b) Three hundred fifty dollars (\$350) per license for those *handling*~~[buying]~~ more than *ten*~~[one]~~ million *(10,000,000)*~~[(1,000,000)]~~ pounds of milk~~[or milk equivalent]~~ during the past year.
- (2) ~~[Testers:]~~ License to test: *fifteen dollars (\$15) per person*~~[—seven dollars (\$7)]~~ for a temporary license *or an annual*~~[and seven dollars (\$7) for yearly]~~ license.~~[Temporary fee to be deducted from annual fee if in the same fiscal year.]~~
- (3) *Licensed to sample and weigh*~~[Sampler weigher]:~~ *fifteen dollars (\$15) per person*~~[Seven dollars (\$7)]~~ for a temporary license *or an annual*~~[and seven dollars (\$7) for yearly]~~ license.~~[Temporary fee to be deducted from annual fee if in the same fiscal year.]~~
- (4) Transfer *station license*~~[stations]:~~~~[License to operate a transfer station for transferring producers' raw farm milk from one transport tank to another—]~~ twenty-five dollars (\$25) *annually*~~[per year]~~.
- (5) *Laboratory license: twenty-five dollars (\$25) annually.*
- (6) *License fees for renewal of licenses that are due and have not been remitted to the director within thirty (30) days following the expiration date shall be assessed a penalty fee prescribed in Section 24 of this Act. Assessment of this penalty fee shall not prevent the director from taking other actions under KRS 260.775 to 260.845.*

Section 19. KRS 260.825 is amended to read as follows:

- (1) The director *shall enforce, administer, and implement the provisions of KRS 260.775 to 260.845 through the promulgation of administrative regulations in accordance with KRS Chapter 13A.*
- (2) *For the purpose of the enforcement of KRS 260.775 to 260.845, the director is authorized during normal business hours to enter any public or private premises, including any vehicle of transport, for the purpose of obtaining samples, gaining access to milk, milk samples, and records pertaining to milk handling, milk weights, milk test results, and milk payments. The director may:*
 - (a) *Collect samples obtained by sampler-weighers or testers for inspection purposes;*
 - (b) *Inspect equipment and other devices used in testing or sampling and weighing milk to determine the accuracy of this equipment and devices. Accuracy may be determined by requiring sampler-weighers and testers to operate equipment and devices to determine the accuracy of equipment, devices and procedures;*
 - (c) *Condemn inaccurate or improperly operating equipment; and*
 - (d) *Examine and copy records and take testimony for the purpose of ascertaining facts necessary to administer KRS 260.775 to 260.845.*
- (3) *At the request of producers, processors, handlers, sampler-weighers, or testers, the director may test for milk components or other tests of milk quality.*
- (4) *The director shall employ qualified persons to assist in the enforcement of KRS 260.775 to 260.845.*
- (5) *The director shall establish and maintain milk-testing facilities to determine if milk has been sampled, weighed, and tested correctly. The testing facility established shall be officially named the "Division of Regulatory Services Dairy Laboratory." The director shall, with approval of the Board of Trustees of the University of Kentucky, fix the salaries of the analysts, inspectors, and supporting staff.*
- (6) *The director shall cooperate with other federal, state, and local enforcement agencies [is charged with the enforcement of KRS 260.775 to 260.845 and may, subject to recommendation of the board, employ all proper means to aid and assist in the enforcement of its provisions, including the revocation or suspension of a license as provided in KRS 260.830. The director may delegate the administration of his responsibility, and may employ such personnel as may be necessary to assist him in the enforcement of KRS 260.775 to 260.845. Personnel engaged in the enforcement of KRS 260.775 to 260.845 and duly authorized by the director may inspect testing equipment and scales, take samples, make tests and retests, and may examine records of weights, tests and payments of fees required in KRS 260.820, of milk and cream at all reasonable hours at licensed places or other locations where pertinent records are held. Subject to recommendations of the board, the director shall promulgate reasonable regulations necessary to supplement KRS 260.775 to 260.845 relating to the buying of milk and cream and test weights used in testing milk and cream to assure accuracy, the definition of standard testware and test weights and may make other regulations reasonably calculated to promote the purposes of KRS 260.775 to 260.845].*

Section 20. KRS 260.840 is amended to read as follows:

- (1) The *Kentucky Milk Handlers Advisory Board shall consist of:*

- (a) *The coordinator of the dairy section of the Animal Science Department at the University of Kentucky, College of Agriculture;*
- (b) *The chair of the dairy committee of the Kentucky Farm Bureau Federation;*
- (c) *The branch manager of the Milk Safety Branch of the Cabinet for Health Services;*
- (d) *Three (3) permitted producers or permitted producer representatives;*
- (e) *Two (2) processors or processor representatives;*
- (f) *One (1) sampler-weigher or sampler-weigher representative; and (g) One (1) tester or tester representative.*

The coordinator of the dairy section of the Animal Science Department at the University of Kentucky, College of Agriculture shall act as chair of the board.

- (2) *The director, or his designated representative, shall be an ex-officio member and secretary to the board.*
- (3) (a) *Each permitted producer shall be appointed by the director from a list of two (2) persons nominated by the dairy committee of the Kentucky Farm Bureau Federation. If a permitted producer becomes chair of the dairy committee of the Kentucky Farm Bureau Federation during his or her term, the dairy committee shall appoint an alternate to serve the remainder of the term of the permitted producer.*
- (b) *Each processor shall be appointed by the director from a list of two (2) persons nominated by the executive committee of the Dairy Products Association of Kentucky. If a processor becomes president of the Dairy Products Association of Kentucky during his or her term, the executive committee shall appoint an alternate to serve the remainder of the term of the processor.*
- (c) *The sampler-weigher and tester shall be at-large appointees and shall be appointed by the director.*
- (4) *Appointments to the board shall be for a term of three (3) years, or until their successors are appointed, except that the terms of office of the members first appointed shall be as follows: two (2) members shall be appointed for one (1) year, two (2) members shall be appointed for two (2) years, and three (3) members shall be appointed for three (3) years. The respective terms of the first members shall be designated by the director at the time of their appointment. No appointed board member shall serve more than two (2) consecutive terms.*
- (5) *Board members not already employed by the state shall be compensated at the rate of one hundred dollars (\$100) per day for board service and be reimbursed for any actual expense incurred while* ~~responsibility for advising the director concerning enforcement of KRS 260.775 to 260.845, for reporting violations, for conducting investigations and hearings pursuant to recommending revocation or suspension of a license, and for recommending rules and regulations to be issued by the director, is vested in the Creamery License Board. The board shall be composed of the coordinator of the dairy section of the Animal Science Department, University of Kentucky, who shall be chairman, and three (3) members appointed by the director. Two (2) of the three (3) appointed members shall be appointed from a list of four (4) persons nominated by the dairy committee of the Kentucky~~

Farm Bureau Federation and the third appointed member shall be appointed from a list of two (2) persons nominated by the executive committee of the Dairy Products Association of Kentucky. The appointed members shall serve for a term of three (3) years and until their successors are appointed and qualified; except that the first appointments made under KRS 260.775 to 260.845 shall be for terms of one (1), two (2), and three (3) years respectively as the director shall designate. The board shall meet at such a time and place as the chairman shall designate. Three (3) members present at any meeting shall constitute a quorum, and upon the written request of any two (2) members, the chairman shall call a meeting at the time and place requested. Board members not already employed by the state shall be compensated at the rate of thirty dollars (\$30) per day for board service and all members shall be reimbursed for any actual expense incurred in performing board duties.

SECTION 21. A NEW SECTION OF KRS 260.775 TO 260.845 IS CREATED TO READ AS FOLLOWS:

- (1) *The board shall meet once annually, or when called into session by the chair, or upon the request of the director, or upon the request of any two (2) or more members of the board. Six (6) members present at a meeting shall constitute a quorum.*
- (2) *The board shall advise the director concerning policy and programs necessary to implement or improve implementation of KRS 260.775 to 260.845.*

Section 22. KRS 260.830 is amended to read as follows:

- (1) The director may *refuse*, revoke, ~~or~~ suspend, *or probate* any license *or temporary license* issued under authority of KRS 260.775 to 260.845; provided, however, that any *refusal*, revocation, ~~or~~ suspension, *or probation* shall occur only when the licensee has failed to comply with the provisions of KRS 260.775 to 260.845 or the administrative regulations issued thereunder, and provided that any *refusal*, revocation, ~~or~~ suspension, *or probation* shall occur only after the licensee has had an opportunity, upon due notice, for an informal hearing before the director, to show cause why *the* ~~his~~ license *or temporary license* should not be *refused*, revoked, ~~or~~ suspended, *or probated*.
- (2) *The director may refuse, revoke, suspend, or probate any license or temporary license of a person who has plead guilty to or been convicted of a felony.*
- (3) If a license is *refused*, ~~suspended or~~ revoked, *suspended, or probated* as the result of an informal hearing, the decision may be appealed and upon appeal an administrative hearing shall be conducted before the board in accordance with KRS Chapter 13B.
- ~~(4)(3) [Upon the revocation of any license,]~~ The licensee may appeal the final order of the *director* ~~board~~ by filing a petition in the *Fayette* ~~Franklin~~ Circuit Court in accordance with KRS Chapter 13B.

Section 23. KRS 260.845 is amended to read as follows:

- (1) All *funds* ~~moneys~~ resulting from the payment of license fees, inspection *fees, fines, penalty fees*, or other charges provided for in KRS 260.775 to 260.845 shall be paid to the director and shall ~~constitute a special and separate fund which shall not lapse and which shall~~ be expended by the director under authority of the board of trustees of the University of Kentucky ~~on proper and separate vouchers~~.
- (2) This *money* ~~fund~~ shall be used primarily for discharging expenses incurred in enforcing

KRS 260.775 to 260.845 and any portion of the ~~money~~~~fund~~ not necessary ~~for~~~~to~~ this purpose shall be used to support research pertaining to methods and equipment for sampling and testing dairy products or such other dairy research work as the director may recommend.

Section 24. KRS 260.992 is amended to read as follows:

- (1) Any *person who violates any provision of Section 4 of this Act*, ~~tester or sampler weigher or transfer station violating, or failing, or refusing to comply with~~ KRS 260.785, 260.790, 260.800, or ~~and~~ 260.805, shall ~~upon conviction,~~ be fined one hundred dollars (\$100) for the first *violation*~~offense~~ and not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each subsequent *violation*~~offense~~.
- (2) Any ~~milk plant, milk receiving station or~~ person *who violates any provision of Sections 2, 3, 5, 9, and 13 of this Act, subparagraph (c) of subsection (2) of Section 17 of this Act*, ~~or agent, firm, company, association or corporation violating, or failing, or refusing to comply with~~ KRS 260.780, 260.795, or ~~and~~ 260.820 ~~shall be guilty of a misdemeanor and upon conviction,~~ shall be fined not more than five hundred dollars (\$500), *nor more than seven hundred fifty dollars (\$750) for each subsequent violation* ~~or imprisoned for not more than one (1) year, or both~~.
- (3) *Any person who violates any provision of Section 18 of this Act shall be assessed a penalty fee of a minimum of fifteen dollars (\$15) or ten percent (10%) of the amount due, whichever is greater, when payment is made.*
- (4) *Any person who violates any provision of subsection (3) of Section 17 of this Act shall be assessed a penalty fee of a minimum of twenty-five dollars (\$25) or ten percent (10%) of the amount due, whichever is greater, when payment is made.*

SECTION 25. A NEW SECTION OF KRS 260.775 TO 260.845 IS CREATED TO READ AS FOLLOWS:

KRS 260.775 to 260.845 shall be known as the "Kentucky Farm Milk Handlers Law." Section

26. This Act takes effect January 1, 2001.

Section 27. The following KRS sections are repealed:

260.810 Inspection of test equipment and measuring or calibrating devices.

260.820 Assessment of milk or cream purchases during month of May.

Approved March 29, 2000