

AN ACT relating to dairies.

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

➔Section 1. KRS 247.453 is amended to read as follows:

As used in KRS 247.450 to 247.505, unless the context otherwise requires:

- (1) "Commissioner" means the commissioner of agriculture;
- (2) "Board" means the state board of agriculture;
- (3) "Producer" means every person who produces milk or cream from cows and thereafter causes the same to be marketed as milk, cream or other dairy products;
- (4) "New producer" means a producer who was not engaged in the business of producing milk at the time a referendum was conducted in accordance with the provisions of KRS 247.450 to 247.505;
- (5) "Person" means any individual, corporation, partnership, association, cooperative or other business entity;
- (6) "Milk" means milk from cows and all of its natural components, sweet cream, sour cream, skim milk, flavored milk, buttermilk, condensed or concentrated whole or skim milk for use in milk products of every kind and description;
- (7) "Handler" or "dealer" means any person, including any distributor, processor, bulk milk handler, or operator of a store, who purchases or receives on consignment or otherwise, milk and milk products of every kind and description, within the state, for sale, shipment, storage, processing, or manufacture;
- (8) "Processor" means any person engaged in the business of processing milk and other material into milk products of every kind and description;~~[-]~~
- (9) "Qualified program" means any state or regional dairy product promotion, research, or nutrition education program certified pursuant to 7 C.F.R. sec. 1150.153.**
- (10) "Refund" means a refund of a producer's assessment required to be issued pursuant to the federal Dairy Promotion and Research Order (7 C.F.R. Part**

1150) and shall not refer to any refund of assessments collected under the provisions of KRS 247.450 to 247.505.

➔Section 2. KRS 247.463 is amended to read as follows:

- (1) Any existing commission, council, board, association or other agency such as the American Dairy Association of Kentucky, fairly representative of the producers **in the State of Kentucky** of such agricultural commodity herein referred to may at any time after the enactment of KRS 247.450 to 247.505 make application to the State Board of Agriculture on forms prescribed by such board for certification and approval for the purpose of conducting a referendum among the producers of such agricultural commodity, for commercial purposes, upon the question of levying an assessment under the provisions of KRS 247.450 to 247.505, collecting and utilizing the same for the purpose stated in such referendum. Such application forms shall include, but not be limited to, the following:
 - (a) Applicant's name;
 - (b) Applicant's address;
 - (c) Date;
 - (d) Program to be undertaken for producers;
 - (e) Brief statement of how program is to be implemented;
 - (f) Referendum to be conducted on a statewide or area basis;
 - (g) Proposed effective date of program;
 - (h) Geographic area (by counties) of producers to be affected by program;
 - (i) Signature of applicant.
- (2) Upon receipt of such application, the commissioner shall publish such application through the medium of the public press in the state within ten (10) days of receipt thereof.

➔SECTION 3. A NEW SECTION OF KRS 247.450 TO 247.505 IS CREATED TO READ AS FOLLOWS:

A qualified program shall:

- (1) Conduct activities as defined in 7 C.F.R. secs. 1150.114, 1150.115, and 1150.116 intended to increase consumption of milk and dairy products;
- (2) Except for programs operated under the laws of the United States or any state, programs shall have been active and ongoing prior to November 29, 1983;
- (3) Be financed primarily by producers, either individually or through cooperative associations;
- (4) Not use any private brand or trade name in advertising and promotion of dairy products unless the National Dairy Promotion and Research Board, established pursuant to 7 C.F.R sec. 1150.131, and the United States Secretary of Agriculture concur that such requirement shall not apply;
- (5) Certify to the United States Secretary of Agriculture that any request from a producer for a refund under the program shall be honored by forwarding that portion of the refund amount equal to the amount of credit that otherwise would be applicable to the program pursuant to 7 C.F.R sec. 1150.152 (a)(3) to either the National Dairy Promotion and Research Board or a qualified program designated by the producer; and
- (6) Not use program funds for the purpose of influencing governmental policy or action.

➔Section 4. KRS 247.497 IS REPEALED AND REENACTED TO READ AS FOLLOWED:

In the event a majority of the producers eligible for participation in the referendum and voting therein shall vote in favor of such assessment, the duly certified commission, council, board, association, or other agency of the producers to which assessments are remitted shall be, or shall seek to become, a qualified program. If the duly certified commission, council, board, association, or other agency of the producers to which assessments are remitted is certified by the United States Secretary

of Agriculture as a qualified program, as an alternative to paying the assessment amount provided for under the referendum, Kentucky producers may elect to pay fifteen cents (\$0.15) per hundredweight of milk marketed to such qualified program. Should a Kentucky producer remit fifteen cents (\$0.15) per hundredweight of milk marketed to such qualified program, the producer shall be deemed to have met the state assessment requirements of KRS 247.450 to 247.505 provided the producer assigns his or her ten cents (\$0.10) per hundredweight credit provided under the federal program to the qualified program. The failure of a producer to remit fifteen cents (\$0.15) per hundredweight and assign to the qualified program, his or her ten cents (\$0.10) per hundredweight federal credit will result in the producer being liable for the full assessment amount established through the referendum, in addition to any assessment owed to the federal program.