

# Referendum Measure No. 32

\*OFFICIAL BALLOT TITLE

CHAPTER 298, LAWS OF 1961

## WASHINGTON STATE MILK MARKETING ACT

AN ACT, Declared to be for the protection of the health and welfare of the public, and for the purpose of maintaining stability and prosperity in the milk industry, and authorizing and providing procedures for the Director of Agriculture to: Prescribe marketing areas, formulate stabilization and marketing plans for regulation of milk production and distribution, determine minimum prices to milk producers and establish, with the consent of an advisory board, emergency retail prices whenever unfair trade practices disrupt milk marketing; providing funds for administration and enforcement from assessments paid by producers and/or dealers and dealers' license fees, and providing penalties.

\* Ballot Title issued by John J. O'Connell, Attorney General.

Vote cast by 1961 Legislature on final passage of Senate Bill No. 336, now identified as Chapter 298, Laws of 1961: STATE SENATE: 49 members—37 Yeas; 12 Nays; 0 Absent or not voting. HOUSE OF REPRESENTATIVES: 99 members—66 Yeas; 32 Nays; 1 Absent or not voting.

### EXPLANATORY COMMENT ISSUED BY THE ATTORNEY GENERAL AS REQUIRED BY LAW

#### The Law As It Now Exists:

Although our state law presently contains provisions designed to safeguard the healthfulness and purity of milk and milk products, there exists no comprehensive law regulating the marketing of milk.

(Continued at top of next page)

## OFFICIAL ARGUMENT **FOR** CHAPTER 298, LAWS OF 1961

1. Referendum Measure No. 32 will enable the Dairy Farmer to adjust his production to consumer needs, thus avoiding the necessity of Federal support at the expense of the taxpayer.
2. The Legislature after much study voted in the Senate 3 to 1 and in the House over 2 to 1 to pass this measure. The great majority of these Legislators are from urban areas. They studied this Act and approved it.
3. A small pressure group comprising less than 2% of the Dairymen in the State of Washington have fought against this bill in both the Legislature and outside to gain special advantages. They hope by misinformation to confuse the average voter into thinking that this bill will raise consumer prices, which is not true.
4. Eighteen other States have State Milk Marketing Acts.
5. **This Act does not set or control the retail price of milk, but in case of a ruinous price war the Director may, with the consent of his advisory board (controlled by the consumers) maintain prices for a period of 90 days after a public hearing.**
6. The average income in the State of Washington of the Dairy Farmer is less than \$1.00 an hour. 40% of the jobs in Washington are dependent on Agriculture. If you want a prosperous community, vote **FOR** Referendum No. 32 (Chapter 298, Laws of 1961).

COMMITTEE APPOINTED TO COMPOSE ARGUMENT **FOR** REFERENDUM MEASURE NO. 32 (Chapter 298, Laws of 1961)

ERNEST W. LENNART  
State Senator, Whatcom County  
District No. 41, Rt. 1, Everson, Wash.

A. LARS NELSON, Master  
Washington State Grange  
3104 Western Ave., Seattle, Wash.

HORACE W. BOZARTH  
Chairman, House Agriculture Committee  
Mansfield, Wash.

#### ADVISORY COMMITTEE

MRS. ARDIS JOHNSON, Exec. Sec.  
Washington State Dairy Federation  
Kent, Wash.

MRS. T. BENTON CAREY  
Coviche, Wash.

MRS. L. W. POWERS  
Burlington, Wash.

MRS. MAXINE TIBEAU  
Auburn, Wash.

**Effect of Referendum Measure No. 32 (Chapter 298, Laws of 1961) If Approved Into Law:**

This measure, comprising fifty sections, enables the director of the Department of Agriculture, subject to certain conditions, to supervise and regulate the production, transportation, manufacture, storage, distribution, delivery and sale of milk and milk products. In the exercise of such power, the director is authorized to prescribe milk marketing areas; to determine the prices payable to producers for milk within such areas; to establish emergency retail prices in such areas when he determines that unfair trade practices are demoralizing and disrupting the orderly marketing of milk; to formulate and amend, after public hearings, stabilization and marketing plans for any marketing area, and to provide for the handling and disposal of surplus milk. The director is further granted certain incidental powers and duties for administration of the act.

If any final order of the director includes a stabilization and marketing plan, such plan shall not become effective until it has been approved in writing by sixty-five per cent of the producers of milk supplying at least sixty-five percent of the milk sold in such marketing area, and sixty-five percent of the milk dealers, distributing sixty-five percent of the milk distributed in such marketing area, subject to certain qualifications specified in the act.

Other portions of the act include, but are not confined to, provisions for the establishment of an advisory board consisting of four members of the general public, three producers and three distributors to advise the director on problems relating to the production and distribution of milk and, in the event of certain emergency conditions involving unfair trade practices which demoralize and disrupt the orderly marketing of milk, to approve orders of the director fixing emergency retail milk prices.

Each milk distributor subject to the act is required to obtain an annual license, maintain certain records and make reports as prescribed by the director.

Funds are provided, by way of license fees and assessments, for the administration and enforcement of the act.

Remedies, in the event of violation of the act, include denial, suspension or revocation of licenses; civil suits for the recovery of money payable under the act and injunctive relief. It is further provided that any violation of the act and/or rules and regulations adopted by the director shall constitute a misdemeanor.

**NOTE:** Complete text of Referendum Measure No. 32 starts on Page 33.

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**OFFICIAL ARGUMENT AGAINST CHAPTER 298, LAWS OF 1961**

**STOP HIGHER MILK PRICES!**

**VOTE AGAINST Referendum 32** (Chapter 298 Laws of 1961)

If passed, the Milk Marketing Act will:

1. Set minimum prices on milk under certain conditions. (Oregon legislature passed such a law in 1961 and milk immediately went up 2 cents a quart.)
2. Guarantee a "reasonable return" to producers and milk dealers. (Which means the consumer will pay higher prices to support the least efficient operators.)
3. Establish a giant new bureau in Olympia with dictatorial powers over the milk industry of the state. (More employees, more office space, more state cars, more inspectors, more auditors, more taxes.)

COMMITTEE APPOINTED TO COMPOSE ARGUMENT **AGAINST** REFERENDUM NO. 32 (Chapter 298, Laws of 1961)

MRS. ROBINSON WALLIS, President  
Washington State Milk Consumers League  
18147 60th Place N.E., Seattle, Washington

JACK ROGERS, Editor  
The Independent  
Port Orchard, Washington

FLOYD McKENNON  
McKennon's Dairy, Inc., Route 2  
Snohomish, Washington

COMPLETE TEXT OF

*Referendum Measure No. 32*

(Chapter 298, Laws of 1961)

\*OFFICIAL BALLOT TITLE

**WASHINGTON STATE MILK MARKETING ACT**

**AN ACT, Declared to be for the protection of the health and welfare of the public, and for the purpose of maintaining stability and prosperity in the milk industry, and authorizing and providing procedures for the Director of Agriculture to: Prescribe marketing areas, formulate stabilization and marketing plans for regulation of milk production and distribution, determine minimum prices to milk producers and establish, with the consent of an advisory board, emergency retail prices whenever unfair trade practices disrupt milk marketing; providing funds for administration and enforcement from assessments paid by producers and/or dealers and dealers' license fees; and providing penalties.**

\* Ballot Title issued by John J. O'Connell, Attorney General.

**LEGISLATIVE TITLE**  
**(Senate Bill No. 336)**

**WASHINGTON STATE MILK MARKETING ACT**

AN ACT Relating to milk, enacting a state milk marketing act; levying assessments; and providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**NEW SECTION.** Section 1. This act may be known and cited as the Washington state milk marketing act.

**NEW SECTION.** Sec. 2. The production and distribution of milk and the dissemination of accurate, scientific information as to the importance of milk and other dairy products in the maintenance of a high level of public health, is hereby declared to be a business affected with the public interest. The provisions of this act are enacted in the exercise of the police powers of the state for the purpose of protecting the health and welfare of the people of this state.

**NEW SECTION.** Sec. 3. It is hereby declared that milk is a necessary article of food for human consumption; that the production and maintenance of an adequate supply of healthful milk of proper chemical and physical content, free from contamination, is vital to the public health and welfare, and that the production, transportation, processing, storage, distribution, or sale of milk in the state is an industry affecting the public health and welfare; that unfair, unjust, destructive and demoralizing trade practices have been carried on and are now being carried on in the production, marketing, sale, processing, or distribution of milk which constitutes a constant menace to the health and welfare of the inhabitants of this state and tend to undermine sanitary regulations and standards of content and purity however effectually such sanitary regulations may be enforced; that health regulations alone are insuf-

ficient to prevent disturbances in the milk industry which threaten to destroy and seriously impair the future supply of milk; that it is the policy of this state to promote, foster and encourage the intelligent production and orderly marketing of commodities necessary to its citizens, including milk, and to eliminate speculation, waste, improper marketing, unfair and destructive trade practices, and improper accounting for milk purchased from producers, and to safeguard the consuming public from future inadequacy of a supply of this necessary commodity.

**NEW SECTION.** Sec. 4. It is recognized by the legislature that conditions within the milk industry of this state are such that it is necessary to establish marketing areas wherein different prices and regulations are necessary, and for that purpose the director shall have the administrative authority, with such additional duties as are herein prescribed, after investigations and public hearings, to prescribe such marketing areas and modify the same when advisable or necessary.

**NEW SECTION.** Sec. 5. It is recognized that, due to seasonal fluctuations in milk production, and other causes, there occurs in certain markets in the state a surplus of milk suitable for human consumption, under the laws and ordinances in force in such markets, in excess of the quantities sold as milk for human consumption, and that such surplus varies from day to day and from season to season; that such surplus must be sold for factory or other purposes at prices usually lower than would be received if sold in the milk trade and that to stabilize and promote the milk industry it is necessary that minimum uniform prices be paid to all producers who either directly or through any corporation or cooperative association furnish milk to any specified market.

**NEW SECTION.** Sec. 6. The foregoing statement in this article of facts, policy, and application of this act is hereby declared a matter of legislative determination.

**NEW SECTION.** Sec. 7. The purposes of this act are to:

(1) Enable the dairy industry with the aid of the state to correct existing evils, develop and maintain satisfactory

marketing conditions, and bring about and maintain a reasonable amount of stability and prosperity in the production and marketing of milk and provide means for carrying on essential educational activities;

(2) Authorize and enable the director to prescribe marketing areas and to determine prices to producers for milk, which are necessary due to varying factors of costs of production, health regulations, transportation, and other factors in said marketing areas of this state;

(3) Authorize and enable the director to establish emergency retail prices in any market area whenever the director determines that unfair trade practices in such market area are demoralizing and disrupting the orderly marketing of milk;

(4) Authorize and enable the director to formulate stabilization and marketing plans subject to the provisions of this act with respect to the contents of such stabilization and marketing plans and declare such plans in effect for any marketing area;

(5) Provide funds for administration and enforcement of this act by assessments to be paid by producers and/or milk dealers and from licenses issued to milk dealers in the manner prescribed herein.

**NEW SECTION.** Sec. 8. It is the intent of the legislature that the powers conferred in this act shall be liberally construed. Nothing in this act shall be construed as permitting or authorizing the development of conditions of monopoly in the production or distribution of milk.

**NEW SECTION.** Sec. 9. For the purposes of this act:

(1) "Department" means the department of agriculture of the state of Washington;

(2) "Director" means the director of the department or his duly appointed representative;

(3) "Board" means the grade A milk advisory board;

(4) "Person" means a natural person, individual, firm, partnership, corporation, company, society, and association, and every officer, agent, or employee thereof. This term shall import either the singular or plural as the case may be;

(5) "Market" or "marketing area," means any geographical area within the state comprising one or more counties or parts thereof, or one or more cities or towns or parts thereof where marketing conditions are substantially similar and which may be designated by the director as one marketing area wherein producer and/or emergency retail prices may be established;

(6) "Milk" means all fluid milk produced under a grade A permit as defined in chapter 15.36 RCW as enacted or hereafter amended and rules adopted thereunder;

(7) "Milk products" includes any product manufactured from milk or any derivative or product of milk;

(8) "Milk dealer" means any person engaged in the handling of milk in his capacity as the operator of a milk plant, a country plant or any other plant from which milk or milk products are disposed of to any place or establishment within a marketing area other than to a plant in such marketing area;

(9) "Producer" means a person producing milk within this state for sale within this state under a grade A milk permit issued by the department under the provisions of chapter 15.36 RCW as enacted or hereafter amended;

(10) "Producer-dealer" means any producer who maintains his own herd, prepares and puts in containers for human consumption the milk produced from such herd, and distributes and sells either partially or exclu-

sively his own product direct to stores or consumers. The term "milk dealer" and "producer" wherever used in this act, include the term "producer-dealer": PROVIDED, That any producer selling less than three thousand four hundred pounds per month of such milk direct to stores or consumers shall not be considered to be either a producer-dealer or milk dealer for the purpose of this act.

**NEW SECTION.** Sec. 10. Whenever the provisions of this act relating to formulation of a stabilization and marketing plan have been invoked, either upon the motion of the director or upon the application of producers or milk dealers, a board shall be created. Such board shall be created upon the directors determination that it is necessary to carry out the provisions of section 29 of this act. The board shall consist of:

(1) Three producers to be selected from representative milk production areas of the state with one such producer member being a member of an agricultural cooperative association formed under chapter 24.32 RCW and one producer member not a member of any cooperative marketing association;

(2) Three milk dealers to be selected from existing representative marketing areas of the state, one such milk dealer member shall represent an agricultural cooperative association which markets milk produced by its members and others as provided under chapter 24.32 RCW, one shall be a producer dealer and one an independent milk dealer; and

(3) Four members of the general public who have no financial interest in the production or distribution of milk except as consumers.

The members shall be appointed by the governor for terms of four years and may be appointed for successive four year terms at the discretion of the governor. The governor may remove any member of the board prior to the expiration of his term of appointment for cause: PROVIDED, That when the board is activated the governor shall appoint one member of each representative group for a term of two years, one member of each representative group for a term of three years, and one member of each representative group for a term of four years, and the fourth consumer member for a term of one year.

**NEW SECTION.** Sec. 11. Upon the death, resignation, or removal for cause of any member of the board, the governor shall fill such vacancy, within thirty days, for the remainder of his term in the manner herein prescribed for appointment to the board.

**NEW SECTION.** Sec. 12. The board shall advise the director on any or all problems relating to the production and distribution of milk in the state or elsewhere.

**NEW SECTION.** Sec. 13. The board shall elect one of its members chairman. The members of the board shall meet at such time and at such place as shall be specified by the call of the director, chairman, or a majority of the board: PROVIDED, That if a stabilization and marketing plan is not in effect or such a plan is not being processed by the director, such board shall not meet except at the request of the director.

**NEW SECTION.** Sec. 14. No person appointed to the board shall receive a salary or other compensation as a member of the board: PROVIDED, That each member of the board shall receive twenty-five dollars for each day spent in actual attendance at or traveling to and from

meetings of the board or special assignments for the board together with traveling expenses at the rate prescribed by law.

**NEW SECTION.** Sec. 15. Subject to the provisions of this act and the specific provisions of any stabilization and marketing plan established thereunder, the director is hereby vested with the authority:

(1) To confer with the legally constituted authorities of other states of the United States, for the purpose of securing uniformity of milk control, with respect to milk coming into the state and going out of the state in interstate commerce with a view of accomplishing the purposes of this act, and to enter into a compact or compacts for such uniform system of milk control;

(2) To investigate all matters pertaining to the production, processing, storage, transportation, distribution, and sale of milk and milk products in the state;

(3) To supervise and regulate the production, transportation, manufacture, storage, distribution, delivery, and sale of milk and milk products and including but not limited to the authority to:

(a) Prescribe the minimum prices to be paid producers by milk dealers in accordance with a stabilization and marketing plan for milk and classify such milk by classes as to usages made by milk dealers;

(b) Prescribe the method and time of payment to be made to producers by dealers in accordance with a stabilization and marketing plan for milk;

(c) Prescribe the emergency minimum prices to be paid to retailers by purchasers in accordance with an emergency stabilization and marketing plan for milk;

(d) Determine what constitutes a natural milk market area;

(e) Determine by using a historical basis, under uniform rules, what portion of the milk produced by each producer subject to the provisions of a stabilization and marketing plan shall be marketable in fluid form and what proportion so produced shall be considered as surplus; such determination on a historical basis shall also apply to milk dealers who purchase or receive milk, for sale or distribution in such marketing area, from plants whose producers are not subject to such stabilization and marketing plan;

(f) Provide for the pooling and averaging of all returns from the sales of milk in a designated market area, and the payment to all producers of a uniform pool price for all milk so sold, except when an alternate plan of pooling agreed upon between producers, producer groups, and handlers consistent with and in compliance with this act and regulations adopted hereunder, has been filed with and approved by the director, subject to such equitable adjustments as are made by the director and subject to such rules as are imposed for the control of marketing of surplus production by the establishment of basic averages or other methods: PROVIDED, That if the director includes provisions for the establishment of quotas by basic averages or other methods such quotas assigned to a producer may be transferred by such producer to any other producer, subject to rules established by the director;

(g) Appoint, select, and employ established agencies for the handling and disposal of the surplus milk; keep, or supervise the keeping, of all accounts and records necessary in connection with such transactions; receive and disburse the funds received in connection therewith; and make

reasonable deductions from the funds so received to pay all necessary expenses incidental to the performance of the duties and the execution of director may deem necessary for the purpose of obtaining a uniform payout to producers in said distributor pools and/or market pools;

(i) Employ and fix the salary of an executive officer, who shall be known as the milk marketing administrator, to serve at the discretion of the director;

(j) Employ such persons as may be necessary and fix their compensation; and incur all expenses necessary to carry out the purposes of this act;

(k) Determine by rule, what portion of any increase in the demand for fluid milk subject to a stabilization and marketing plan providing for quotas shall be assigned new producers or existing producers who because of their established quotas are not able to maintain efficient economic units.

(4) To have access to and enter at all reasonable hours and places where milk is being stored, bottled, or manufactured, or where milk and milk products are being bought, sold, or handled, or where the books, records, papers, or documents relating to such transactions are kept, and examine and/or copy the same;

(5) To issue subpoenas to compel the attendance of witnesses and/or the production of books, documents, and records anywhere in the state in any hearing affecting the authority or privileges granted by a license issued under the provisions of this act. Witnesses shall be entitled to fees for attendance and travel as provided for in chapter 2.40 RCW as enacted or hereafter amended;

(6) To act as mediator or arbitrator in any controversial issue that may arise among or between milk producers and milk dealers as between themselves, or that may arise between them as groups;

(7) To make, adopt, and enforce all rules necessary to carry out the purpose of this act subject to the provisions of chapter 34.04 RCW concerning the adoption of rules, as enacted or hereafter amended: PROVIDED, That nothing contained in this act shall be construed to abrogate or affect the status, force, or operation of any provision of the public health laws enacted by the state or any municipal corporation or the public service laws of this state.

**NEW SECTION.** Sec. 16. The director shall not exercise his authority and formulate a stabilization and marketing plan or amend such an existing plan in any marketing area until a public hearing has been held for such marketing area and the director determines that it will be in the public interest that he so exercise his authority and formulate a stabilization and marketing plan or amend such an existing plan in such marketing area. The director may on his own motion call such a hearing, and shall call such a hearing upon the written application of at least forty percent of the milk producers supplying at least forty percent of the milk sold in such marketing area, or upon the written application of distributors, distributing at least sixty-five percent of the milk consumed in such marketing area.

The director shall issue a recommended decision within ninety days after such hearing and if the director finds that a stabilization and marketing plan is necessary to accomplish the purposes of this act he shall formulate a stabilization and marketing plan for milk for such marketing area.

Producers and/or milk dealers shall have thirty days from the issuance of such recommended decision to file written protests or suggested amendments to all matters included in the recommended decision of the director. The director shall review such protests or suggested amendments to his recommended decision and shall issue a final decision within ninety days from the final day upon which protests and amendments could be filed with him on his recommended decision.

If the final decision includes a stabilization and marketing plan, such plan shall not become effective until it has been approved in writing by sixty-five percent of the producers of milk supplying at least sixty-five percent of the milk sold in such marketing area, and sixty-five percent of the milk dealers, distributing sixty-five percent of the milk distributed in such marketing area.

The director shall consider the assent or dissent of any cooperative marketing association authorized by its producer members, either by a majority vote of those voting thereon or by its articles of incorporation or by its bylaws or by any marketing or other agreement, to market the affected commodity for such members or to act for them in any such referendum as being the assent or dissent of the producers who are members of or stockholders in or under contract with such cooperative association: **PROVIDED**, That the cooperative marketing association shall first determine that a majority of the membership of the cooperative marketing association authorizes its action concerning the specific stabilization and marketing plan: **PROVIDED, FURTHER**, That any such stabilization and marketing plan or amendment thereto may become effective even if the above specified number of milk dealers fail to or refuse to favor or approve such stabilization and marketing plan or amendment, if upon the basis of findings on a duly noticed hearing as provided for in sections 25 and 26 of this act, the director determines:

(1) That such refusal tends to prevent the effectuation of the declared policy of this act; and

(2) That the issuance of such order is the only practical means of advancing the interest of the producers pursuant to the declared policy of this act.

**NEW SECTION.** Sec. 17. The director may withdraw the exercise of his authority from any marketing area after a public hearing, as provided for in section 16 of this act, has been held for such marketing area and the director determines that it will be in the public interest to withdraw his power from such marketing area.

**NEW SECTION.** Sec. 18. The director shall withdraw the exercise of his authority from any marketing area within sixty days of the application for such withdrawal by at least fifty-one percent of the producers producing fifty-one percent of the milk of such market area: **PROVIDED**, That the director may, for a reasonable time, continue to carry on necessary administrative functions for the termination of such stabilization and marketing plan and the payment of necessary costs and obligations incurred by the director in such marketing area.

All funds which remain in the account of the stabilization and marketing plan fund for such marketing area and which cannot be apportioned without undue cost to the producers and/or milk dealers to whom they are due shall be paid to the state treasurer for deposit in the permanent common school fund of the state of Washington.

**NEW SECTION.** Sec. 19. In order to provide the director with accurate and reliable information, in the event

such information is not then on file with the director, with respect to the persons who may be directly affected by the provisions of any proposed stabilization and marketing plan, the director is hereby authorized and directed, whenever he has reason to believe that the issuance of a stabilization and marketing plan will tend to effectuate the declared policy of the act or upon receipt of a written application for a hearing pursuant to section 16 of the act, to notify milk dealers, by publication of a notice, to file with the director within ten days from the last date of such publication a report, properly certified, showing:

(1) The correct name and address of such milk dealer;

(2) The quantity of the milk affected by such proposed stabilization and marketing plan handled by such milk dealer in the year preceding the filing of such report;

(3) The correct names and addresses of all producers who may be directly affected by the provisions of such proposed stabilization and marketing plan handled by such milk dealer in the year preceding the filing of such report;

(3) The correct names and addresses of all producers who may be directly affected by the provisions of such proposed stabilization and marketing plan from whom such milk dealer received milk in the year preceding the filing of such report; and

(4) The quantities of milk received by such milk dealer from each such producer in the year preceding the filing of such report.

**NEW SECTION.** Sec. 20. The notice to milk dealers requiring them to file the report, provided for in section 19 of this act, shall be published by the director for a period of not less than five days in a newspaper or newspapers of general circulation published within the marketing area defined in the stabilization and marketing plan, and in such other newspaper or newspapers and other media as the director may prescribe.

**NEW SECTION.** Sec. 21. The director shall also mail a copy of the notice to file the report, provided for in section 19 of this act, to all milk dealers whose names and addresses appear upon the list on file with the director who may be directly affected by the provisions of such stabilization and marketing plan.

**NEW SECTION.** Sec. 22. Each milk dealer directly affected by the provisions of any proposed stabilization and marketing plan shall file a verified report, provided for in section 19 of this act, with the director within the time specified. Failure or refusal of any milk dealer to file the report provided for in section 19 of this act shall not invalidate any proceedings taken or stabilization and marketing plan issued as provided for in this act. The director is authorized and directed to proceed upon the basis of such reports and information as may otherwise be available.

**NEW SECTION.** Sec. 23. From the reports, provided for in section 19 of this act, filed with the director and the information received or available to him, including any proper corrections, the director shall prepare a list of the names and addresses of such producers and the volume of milk produced or marketed by all such producers and a list of the names and addresses of such milk dealers and the volume of milk handled by all such milk dealers, directly affected by the provisions of such proposed stabiliza-

tion and marketing plan or amendments thereto in the preceding year. Such lists shall constitute complete and conclusive lists for use in any finding made by the director and such findings shall be conclusive.

**NEW SECTION.** Sec. 24. The information contained in the individual reports of milk dealers filed with the director pursuant to the provisions of section 19 of this act shall not be made public by the director in such form, but the information contained in such reports may be prepared in combined form for use by the director, his agents, or other interested persons, in the formulation, administration, and enforcement of a stabilization and marketing plan, or may be made available pursuant to court order, but shall not be made available to anyone for private purposes.

**NEW SECTION.** Sec. 25. The notice for a hearing or hearings to determine if a stabilization and marketing plan or amendment to such a plan is in the public interest shall be published by the director for a period of not less than five days in a newspaper or newspapers of general circulation published within the marketing area affected by the proposed exercise of the director's authority and the establishment of a stabilization and marketing plan or the amendment of such an existing plan and in such other newspaper or newspapers and other media as the director may prescribe.

**NEW SECTION.** Sec. 26. The director shall mail a notice of such hearing to all producers and milk dealers on file with the director who may be affected by the proposed exercise of power by the director and establishment of a stabilization and marketing plan or the amendment of such an existing plan. Nonreceipt of notice by mail by any producer or handler shall not be a cause to invalidate such hearing and the director's recommended or final decision resulting from such hearing.

**NEW SECTION.** Sec. 27. The director, subject to notice and a hearing as provided for in sections 25 and 26 of this act, may define or amend what constitutes a marketing area.

**NEW SECTION.** Sec. 28. The director, subject to notice and a hearing as provided for in sections 25 and 26 of this act, shall establish minimum prices or may amend established minimum prices, by class usage, to be paid producers for milk sold in any marketing area which will best protect the milk industry and insure a sufficient quantity of pure and wholesome milk in the public interest. The director shall take into consideration all conditions affecting the milk industry, including the price necessary to produce a reasonable return to the producer and milk dealer. In determining the minimum prices for each class in any market area, the director shall take into consideration the reasonable unit cost of each class of handling milk incurred by each such class provided for in section 15 (3) (a) of this act, including all costs of hauling, processing, selling, and delivering by the several methods used in such marketing area in accomplishing such hauling, processing, selling, and delivery, as such costs are determined by impartial audits or examination of the books, records, reports, or surveys of all, or such portions of each class, respectively, in such market area, as are reasonably determined by the director to be sufficiently representative to indicate the costs of each class in such marketing area.

**NEW SECTION.** Sec. 29. The director, either upon his own motion or upon the application of producers or milk

dealers, shall provide for a public hearing, subject to the notice requirements of section 25 of this act, for the purpose of determining whether unfair trade practices exist in any marketing area, and whether such unfair trade practices will, or will tend to, demoralize and disrupt the orderly marketing of milk in such marketing area. If he finds, following such hearing, that such practices do exist in such marketing area, the director, with the advice and consent of two-thirds of the members of the board, may immediately establish such minimum retail prices to be paid in such area as will best protect the milk industry and insure a sufficient quantity of pure and wholesome milk in the public interest. The director, with the advice and consent of two-thirds of the members of the board, may establish such minimum retail prices for a period of not more than ninety days at any one time. The director, with the advice and consent of two-thirds of the members of the board, may reestablish minimum retail prices in any such area; however, such minimum retail prices shall not be reestablished within thirty days after the termination date of any prior retail price order in such area. The director shall take into consideration all conditions affecting the milk industry, including the prices necessary to produce a reasonable return to the producer and milk dealer. The director, with the advice and consent of two-thirds of the members of the board, may invoke the authority of this section regardless of whether a stabilization and marketing plan is in effect under state law in such area or whether a milk marketing order is in effect in such area under federal law: PROVIDED, That in establishing such minimum retail prices, the director, with the advice and consent of two-thirds of the members of the board, shall establish prices providing for reasonable differentials for different methods of distribution, including, but not limited to, drive-ins, supermarkets and home delivery.

**NEW SECTION.** Sec. 30. After the director has established the minimum prices to be paid for milk, no person shall buy, or offer to buy, sell or offer to sell any milk at prices less than the minimum established by the director. Any method, device, or transaction whereby any person buys or offers to buy, sells or offers to sell at a price less than that established by the director applicable to the grade or class of milk involved in the transaction, whether by discount, rebate, free service, advertising allowances, gift, or otherwise, is unlawful.

**NEW SECTION.** Sec. 31. No provision of this act shall be deemed or construed to prevent or abridge the right of a cooperative corporation or association, organized under the laws of this state and engaged in marketing or making collective sales of milk produced by its members, to:

(1) Blend the net proceeds of all its sales in various use classes and pay its producers such blended price, with such deductions therefrom and differentials as may be authorized under contracts between such corporation and its members;

(2) Make collective sales of the milk of its members and other producers represented by or marketing through it.

**NEW SECTION.** Sec. 32. No provision of this act shall be deemed or construed to:

(1) Prevent or abridge the right of any milk dealer from contracting for his milk with a cooperative corporation or association, organized under the laws of this state

and engaged in marketing or making collective sales of milk produced by its members, upon the basis provided in section 31 of this act;

(2) Affect or impair the contracts of any such cooperative association with its members or other producers marketing their milk through such corporation;

(3) Impair or affect any contract which any such cooperative association has with milk dealers or others which are not in violation of this act;

(4) Affect or abridge the rights and powers of any such cooperative association conferred by the laws of this state under which it is incorporated.

The minimum prices to be paid for milk marketed by or through any such corporation in a marketing area shall be those fixed by the order of the director.

**NEW SECTION.** Sec. 33. The director shall examine and audit not less than four times each year or at any other such time he considers necessary, the books, records, and accounts relating to milk usages, and may photostat such books, records, and accounts of milk dealers and cooperatives licensed or believed subject to license under this act for the purpose of determining:

(1) How payments to producers for the milk handled are computed and whether the amount of such payments are in accordance with the applicable stabilization and marketing plan;

(2) If any provisions of this act affecting such payments directly or indirectly have been or are being violated;

(3) The costs of handling, distribution, and marketing of milk and milk products;

(4) The manner of disposition of the total income of each and every milk dealer and cooperative.

No person shall in any way hinder or delay the director in conducting such examination or audit.

**NEW SECTION.** Sec. 34. The director may, during reasonable hours, enter any place where milk is produced, stored, handled, or sold, or enter any conveyance used to transport milk for the purpose of taking samples of such milk for analysis. No person shall in any way hinder or delay the director in obtaining such milk samples for analysis.

**NEW SECTION.** Sec. 35. All milk dealers subject to the provisions of this act shall keep the following records:

(1) A record of all milk received or produced, detailed as to location and as to name and address of suppliers, with butterfat tests, prices paid, deductions or charges made;

(2) A record of the quantity of all milk sold, detailed as to grade, use, location, market outlet, and size and style of containers, with prices and amounts received therefor, and the butterfat test of such milk;

(3) A record of the quantities of all milk transported, shipped or hauled, including the distances and the amounts paid for the movement of such milk, in all cases where the milk dealer pays on his own account or on the account of producers for the movement of such milk;

(4) A record of the quantity of each milk product manufactured, the quantity of milk used in the manufacture of each product, and the quantity and value of the milk products sold;

(5) A record of wastage or loss of milk or butterfat;

(6) A record of the spread or handling expense and profit or loss, represented by the difference between the

price paid and the price received for all milk and milk products;

(7) A record of all other transactions affecting the assets, liabilities or net worth of the milk dealer;

(8) Such other records and information as the director may deem necessary for the proper enforcement of this act.

The records herein provided shall be kept in the possession of the milk dealer for a period of not less than two years, unless the director otherwise provides.

**NEW SECTION.** Sec. 36. Each milk dealer subject to the provisions of this act shall from time to time, as required by rule of the director, make and file a verified report, on forms prescribed by the director, of all matters on account for which a record is required to be kept, together with such other information or facts as may be pertinent and material within the scope of the purpose of this act. Such reports shall cover a period specified in the order, and shall be filed within a time fixed by the director.

**NEW SECTION.** Sec. 37. It shall be unlawful for any milk dealer subject to the provisions of a stabilization and marketing plan to handle milk subject to the provisions of such stabilization and marketing plan without first obtaining an annual license from the director for each separate place of business where such milk is received or sold. Such license shall be in addition to any other license required by the laws of this state: PROVIDED, That the provisions of this section shall not become effective for a period of sixty days subsequent to the inception of a stabilization and marketing plan in any marketing area prescribed by the director.

**NEW SECTION.** Sec. 38. Application for a license to act as a milk dealer shall be on a form prescribed by the director and shall contain, but not be limited to the following:

(1) The nature of the business to be conducted;

(2) The full name and address of the person applying for the license if an individual; and if a copartnership, the full name and address of each member thereof; and if a corporation, the full name and address of each officer and director;

(3) The complete address at which the business is to be conducted;

(4) Facts showing that the applicant has adequate personnel and facilities to properly conduct the business of a milk dealer;

(5) Facts showing that the applicant has complied with all the rules prescribed by the director under the provisions of this act;

(6) Any other reasonable information the director may require.

**NEW SECTION.** Sec. 39. (1) Application for each milk dealer's license shall be accompanied by an annual license fee of five dollars.

(2) If an application for the renewal of a milk dealer's license is not filed on or before the first day of an annual licensing period a penalty of three dollars shall be assessed and added to the original fee and shall be paid by the applicant before the renewal license shall be issued: PROVIDED, That such penalty shall not apply if the applicant furnishes an affidavit that he has not acted as a



milk dealer subsequent to the expiration of his prior license.

**NEW SECTION.** Sec. 40. The director may deny, suspend, or revoke a license upon due notice and an opportunity for a hearing as provided in chapter 34.04 RCW, concerning contested cases, as enacted or hereafter amended, or rules adopted thereunder by the director, when he is satisfied by a preponderance of the evidence of the existence of any of the following facts:

(1) A milk dealer has failed to account and make payment, without reasonable cause, for milk purchased from a producer subject to the provisions of this act or rules adopted hereunder;

(2) A milk dealer has committed any act injurious to the public health or welfare or to trade and commerce in milk;

(3) A milk dealer has continued in a course of dealing of such nature as to satisfy the director of his inability or unwillingness to properly conduct the business of handling or selling milk, or to satisfy the director of his intent to deceive or defraud producers subject to the provision of this act or rules adopted hereunder;

(4) A milk dealer has rejected without reasonable cause any milk purchased or has rejected without reasonable cause or reasonable advance notice milk delivered in ordinary continuance of a previous course of dealing, except where the contract has been lawfully terminated;

(5) Where the milk dealer is insolvent or has made a general assignment for the benefit of creditors or has been adjudged bankrupt or where a money judgment has been secured against him upon which an execution has been returned wholly or partially satisfied;

(6) Where the milk dealer has been a party to a combination to fix prices, contrary to law; a cooperative association organized under chapter 24.32 RCW and making collective sales and marketing milk pursuant to the provisions of such chapter shall not be deemed or construed to be a conspiracy or combination in restraint of trade or an illegal monopoly;

(7) Where there has been a failure either to keep records or to furnish the statements or information required by the director;

(8) Where it is shown that any material statement upon which the license was issued is or was false or misleading or deceitful in any particular;

(9) Where the applicant is a partnership or a corporation and any individual holding any position or interest or power of control therein has previously been responsible in whole or in part for any act for which a license may be denied, suspended, or revoked, pursuant to the provisions of this act or rules adopted hereunder;

(10) Where the milk dealer has violated any provisions of this act or rules adopted hereunder;

(11) Where the milk dealer has ceased to operate the milk business for which the license was issued.

**NEW SECTION.** Sec. 41. There is hereby levied upon all milk sold or received in any marketing area subject to a stabilization and marketing plan established under the provisions of this act an assessment, not to exceed four cents per one hundred pounds of all such milk, to be paid to the director by the first milk dealer who receives or handles such milk from any producer or his agent subject to such stabilization and marketing plan.

The amount to be assessed and paid to the director under any stabilization and marketing plan shall be determined by the director within the limits prescribed by this section and shall be determined according to the necessities required to carry out the purpose and provisions of this act under any such stabilization and marketing plan.

**NEW SECTION.** Sec. 42. There is hereby levied upon all milk sold in a marketing area subject to an order of the director prescribing emergency minimum retail prices under the authority of section 29 of this act an assessment, not to exceed two cents per one hundred pounds of all such milk, to be paid to the director by the first milk dealer who receives or handles such milk from any producer or his agent subject to section 29 of this act: **PROVIDED**, That such assessment shall not be deducted from payments made to a producer by such milk dealer.

The amount to be assessed and paid to the director under any stabilization and marketing plan subject to section 29 of this act shall be determined by the director within the limits prescribed by this section and shall be determined according to the necessities required to carry out the purpose and provisions of this act.

**NEW SECTION.** Sec. 43. Each licensee, in addition to other records required under the provisions of this act, shall keep such records and make such reports as the director may require for the purpose of computing payments of assessments by such licensee.

**NEW SECTION.** Sec. 44. All assessments on milk subject to the provisions of this act and a stabilization and marketing order shall be paid to the director on or before the twentieth day of the succeeding month for the milk which was received or handled in the previous month.

**NEW SECTION.** Sec. 45. The director shall establish a separate account for each stabilization and marketing plan established under the provisions of this act, and all license fees and assessments collected under any such stabilization and marketing plan shall be deposited in its separate account to be used only for the purpose of carrying out the provisions of such marketing and stabilization plan: **PROVIDED**, That the director may deduct from each such account the necessary costs incurred by the board. Such costs shall be prorated among the several stabilization and marketing plans if more than one is in existence under the provisions of this act.

**NEW SECTION.** Sec. 46. All assessments provided under section 42 of this act shall be deposited with the director and he shall use them only to carry out the provisions and purpose of section 29 of this act.

**NEW SECTION.** Sec. 47. The written application by producers or dealers for a proposed stabilization and marketing plan provided for in section 16 of this act shall be accompanied by a filing fee of one hundred dollars payable to the director, and shall designate some person as attorney in fact for the purpose of this section. Upon receipt of such application and filing fee the director shall prepare a budget estimate for all the costs necessary to establish the proposed stabilization and marketing plan. Within thirty days after receipt of the budget cost by the attorney in fact, the persons applying to the director for the establishment of the proposed stabilization and marketing plan

shall pay the difference between the filing fee and the budget estimate for the costs of its establishment. Such application shall not be acted upon by the director until the full amount of the budget estimate has been deposited with him. Such fee shall not be refunded to the applicants by the director: PROVIDED, That if such stabilization and marketing plan is established, the applicants who furnished the necessary funds, as determined by the budget estimate, shall be reimbursed within a reasonable time as prescribed by the director from the assessments collected under the provisions of this act and the stabilization and marketing plan for which such budget estimate was prepared by the director.

**NEW SECTION.** Sec. 48. In addition to any other remedy provided by law, the director in the name of the state shall have the right to sue in any court of competent jurisdiction for the recovery of any moneys due it from any person subject to the provisions of this act and shall also have the right to institute suits in equity for injunc-

tive relief and for purpose of enforcement of the provisions of this act.

**NEW SECTION.** Sec. 49. Any violation of this act and/or rules and regulations adopted thereunder shall constitute a misdemeanor: PROVIDED, That this section shall not apply to retail purchasers who purchase milk for domestic consumption.

**NEW SECTION.** Sec. 50. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

Passed the Senate February 28, 1961.  
Passed the House March 8, 1961.  
Approved by the Governor March 21, 1961.  
Referendum filed March 22, 1961.

Signature petitions found to be sufficient July 26, 1961 and measure certified to voters for approval or rejection at the November 6, 1962 state general election.

VICTOR A. MEYERS, *Secretary of State.*

COMPLETE TEXT OF

*Referendum Measure No. 33*

(Chapter 275, Laws of 1961)

OFFICIAL BALLOT TITLE

PRIVATE AUDITS OF MUNICIPAL ACCOUNTS

AN ACT, Relating to auditing the accounts and financial affairs of cities and towns; authorizing cities and towns to cause the official examination of their affairs to be conducted by private accountants instead of the state auditor; prescribing qualifications for, and the method of selecting, private accountants; and requiring the state auditor to prescribe and the attorney general to enforce minimum standards of accounting and reporting.

LEGISLATIVE TITLE  
(House Bill No. 662)

CITIES AND TOWNS—INDEPENDENT AUDITS

AN ACT Relating to auditing of accounts, and providing for the auditing of accounts of municipal corporations; adding five new sections to chapter 43.09 RCW; and amending section 8, chapter 76, Laws of 1909 and RCW 43.09.260.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**NEW SECTION.** Section 1. There is added to chapter 43.09 RCW a new section to read as follows:

As used in sections 1 through 5 of this amendatory act:

- (1) "Municipal corporation" means a city or town.
- (2) "Board" means the state board of accountancy.
- (3) "Accountants" means and indicates all accountants whose names are included in the special roster prepared and maintained by the board, as required in section 5 of this amendatory act.

**NEW SECTION.** Sec. 2. There is added to chapter 43.09 RCW a new section to read as follows:

Each municipal corporation, within ninety days before the end of its regular year, must notify the state auditor's office if the municipal corporation intends to have its fiscal affairs examined by an independent accountant included in the special roster maintained by the board under section