

the effectuation of this act and the making of the improvements specified in section 3 hereof.

SEC. 5. There is hereby appropriated out of the general fund in the state treasury the sum of two million dollars (\$2,000,000) or so much thereof as may be necessary: *Provided*, That the same shall become available as follows: One hundred thousand dollars (\$100,000) on the effective date of this act; one million nine hundred thousand dollars (\$1,900,000) on February 1, 1941: *And provided further*, That no liability shall be incurred under this act in excess of the unexpended balance then available. All expenditures shall be made upon vouchers approved by the commission. } *Vetoed.*

Passed the House March 8, 1939.

Passed the Senate March 7, 1939.

Approved by the Governor March 21, 1939, with the exception of section 5, which is vetoed.

CHAPTER 219.

[H. B. 189.]

DAIRY INDUSTRY

AN ACT relating to the dairy industry; declaring the public policy of this state to promote the expansion of the dairy industry by promoting the increased use of dairy products, by providing for research and publicity advertising and sales promotion campaign to increase the consumption of Washington dairy products; levying an assessment on dairy products and providing for its collection; creating a dairy products commission, constituted with state authority and vesting in it the administration of this act; providing for the powers, duties and authority of said commission; providing penalties for the violation of this act; and providing for the public welfare.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. That this act is passed:

(a) In the exercise of the power of the state

Purpose
of act.

to protect the public health, to provide for the economic development of the state, to prevent fraudulent practices, to promote the welfare of the state, and stabilize the dairy industry by increasing consumption of dairy products within the state and nation;

(b) Because the dairy products produced in Washington comprise one of the major agricultural crops of Washington, and that therefore the business of marketing and distributing such crop and the expansion of its markets is affected with the public interest;

(c) Because it is necessary and expedient to enhance the reputation of Washington dairy products in domestic and national markets;

(d) Because it is necessary to promote the knowledge of health-giving qualities, food and dietetic value of the dairy products of the nation and Washington dairy products in particular, and to expanded development of the dairy industry;

(e) Because Washington dairy products are handicapped by eastbound freight rates, therefore the quality of these products must be impressed upon the consumers of the nation, in order that these handicaps may be overcome;

(f) Because the stabilizing of the dairy industry, the enlargement of its markets, and the increased consumption of dairy products are necessary to assure the payment of taxes to the state and its subdivisions, to alleviate unemployment, and to provide for higher wage scales for agricultural labor and maintenance of our high standard of living;

(g) To disseminate information giving the public full knowledge of the manner of production, the cost and expense thereof, the care taken to produce and sell only dairy products of the highest standards of quality, the methods and care used

in their preparation for market, and the methods of sale and distribution to increase the amount secured by the producer therefor, so that they can pay higher wages and pay their taxes, and by such information to reduce the cost of marketing and distribution to the extent that the spread between cost to consumer and the amount received by the producer will be reduced to the minimum absolutely necessary;

(h) To establish a permanent organization to assist and promote the supplying of under-nourished and under-privileged children with the necessary milk and milk products to insure the development of healthy bodies and minds in order that they may develop into useful citizens of the state and nation in the future;

(i) To protect the general public by educating it in reference to the various market classifications of dairy products, the food value and industrial and medicinal uses thereof.

SEC. 2. That as used in this act:

(a) The term "commission" shall mean the Washington State Dairy Products Commission; Definitions.
"Commission."

(b) The term "person" shall mean individuals, corporations, partnerships, trusts, associations, co-operatives, and any and all other business units, devices and arrangements; "Person."

(c) "Shipment" and "shipped" shall be deemed to have taken place when milk and/or cream has been delivered or consigned to any person, dealing in, processing, distributing or manufacturing dairy products for sale at wholesale or retail, for human consumption, industrial or medicinal uses; "Shipment."

(d) The terms "handle" or "handler" shall mean or indicate any person who purchases milk, cream and/or skimmed milk, for processing, manufacturing, sale or distribution, whether as owner, agent or otherwise; "Handle."

"Dealer." (e) The term "dealer" shall mean and include any person who handles, ships, buys and sells dairy products, or who acts as sales or purchasing agent, broker, or factor of dairy products;

"Processor." (f) The term "processor" or "processing plant" shall include every person and every place to whom or to which milk or cream is delivered, for the purpose of canning, drying, manufacturing, preparing and/or packaging for market, or for use in producing or manufacturing a product of milk and/or cream;

"Producer." (g) The term "producer" shall include every person who produces milk from cows or goats and thereafter sells the same for human or animal food, medicinal or industrial uses.

Dairy products commission.

SEC. 3. There is hereby created a Washington State Dairy Products Commission to be thus known and designated.

Members.

The commission shall be composed of five practical dairy products producers. The Director of Agriculture and the Supervisor of the Division of Dairy and Livestock of the State of Washington shall be ex-officio members of the commission without vote.

Qualifications.

The five members of the commission shall be citizens and residents of the State of Washington over the age of twenty-five (25) years, each of whom has been and is actually engaged in producing dairy products within the State of Washington for the last five (5) years past.

Term of office.

The qualification of members of the commission as herein set forth must continue during their term of office. The regular term of office of members of the commission shall be three (3) years from the date of appointment and until their successor is appointed and qualified. The term of office of the first members shall terminate on June 1, 1942.

The Governor of the State of Washington shall immediately after this act becomes effective, appoint five (5) men with the qualifications stated above, to be members of said commission.

Governor to appoint.

A majority of the regular members shall constitute a quorum for the transaction of all business and the carrying out of the duties of said commission.

Quorum.

No member of the commission shall receive any salary or other compensation, but each member shall receive the sum of ten dollars (\$10.00) per day for each day spent in actual attendance on meetings of the commission together with subsistence and traveling expenses at the rate allowed by law to state employees.

Compensation.

SEC. 4. That the Washington State Dairy Products Commission shall be, and it is, hereby declared and created a corporate body. It shall have power to sue and be sued; to contract and be contracted with; it shall have and possess all the powers of a corporation. The commission shall adopt a corporate seal. Copies of the proceedings, records, and acts of the commission, when certified by the secretary and authenticated by the corporate seal, shall be admissible in evidence in all courts of this state, and shall be prima facie evidence of the truth of all statements therein.

Corporate body.

SEC. 5. The commission shall elect a manager whose compensation shall be fixed by the commission: *Provided*, That no member of the above commission shall be eligible to appointment as manager.

Manager.

SEC. 6. The commission shall appoint a secretary-treasurer, who shall sign all vouchers, and receipt for all moneys received by the commission. The treasurer shall file with the commission a fidelity bond executed by a surety company authorized to do business in this state in favor of the commission and the State of Washington, jointly

Secretary-treasurer.

and severally, conditioned for the faithful performance of his duties, and the strict accounting of all funds to the commission and the State of Washington in the penal sum of twenty thousand dollars (\$20,000).

Liability
of state.

SEC. 7. The State of Washington shall not be liable for the acts of said commission or its contracts. All persons employed and all persons contracting under the act shall be limited to the funds collected under the provisions of this act, and no member of the commission or any employee or agent thereof shall be liable on the contracts of the commission. All salaries, expenses, costs, obligations, and liabilities incurred by said commission shall be payable only from funds collected under the provisions of this act.

Powers and
duties of
commission.

SEC. 8. The powers and duties of the commission shall include the following:

(1) To elect a chairman and from time to time such other officers as it may deem advisable, and to adopt and from time to time alter, rescind, modify and amend all proper and necessary rules, regulations and orders for the exercise of its power and the performance of its duties, which said rules, regulations and orders shall have the force and effect of the law when not inconsistent with existing laws;

(2) To administer and enforce this act and do and perform all acts and exercise all powers reasonably necessary to effectuate the purpose of this act;

(3) To employ and at its pleasure discharge a manager and secretary-treasurer, and such attorneys, clerks and employees as it deems necessary, and to prescribe their duties and powers and fix their compensation;

(4) To establish offices and incur any and all expenses and to enter into any and all contracts

and agreements and to create such liabilities as may be reasonable for the proper administration and enforcement of this act;

(5) To investigate and prosecute violations of this act;

(6) To conduct scientific research to develop and/or discover the health, food, therapeutic, dietetic, and industrial uses for products of milk or its derivatives;

(7) To employ and at its pleasure discharge advertising counsel, advertising agency, agents, and such other help as it deems necessary, and to outline their powers and duties and fix their compensation;

(8) To make in the name of the commission such advertising contracts and other agreements as may be necessary, to promote the sale of dairy products on either a state or national basis;

(9) To keep accurate books, records, and accounts of all of its dealings, which books, records and accounts shall be open to inspection and audit by the regular agencies of the State of Washington as by statute provided.

SEC. 9. (a) There is hereby levied and imposed upon all butter fat in milk and/or cream produced in the State of Washington during the fiscal year beginning on the effective date of this act, and annually thereafter, an assessment not to exceed one-fifth ($\frac{1}{5}$) of one cent (1¢) per pound, the minimum payment on any delivery of butter fat in milk or cream to be one cent (1¢). All untested milk or cream purchased by bulk and not tested for butter fat contentum or weight shall be deemed to weigh and test as follows: milk, eight and six-tenths pounds (8.6) per gallon; butter or milk fat content, four per cent (4%); cream, eight (8) pounds per gallon; butter or milk fat content, thirty per cent (30%), and any fractional or greater

Assessment
levied.

measurements shall be on above basis. The amount to be assessed shall be determined by the commission and shall be determined according to the necessities to effectuate the purposes of this act: *Provided, however,* That the provisions of this section shall not apply to milk and cream used upon the farm or home where produced but will apply where marketed either in bulk or package;

(b) All money assessed under this act shall be collected by the first dealer; the moneys so collected shall be deducted from the amount due the producer of the milk and/or cream, and all moneys so collected be paid to the treasurer of the commission on or before the 20th day of the succeeding month for the previous month's collections and deposited in a bank or banks designated by the commission to the credit of the commission fund. If any dealer shall fail to remit any moneys so collected, or fail to make deductions for assessments herein provided, it shall in addition to penalties provided in this act constitute a lien on any property owned by him, and shall be reported to the County Auditor by the commission, supported by the proper and conclusive evidence and collected in the manner prescribed for the collection of delinquent taxes.

Dealer or shipper of dairy products to keep record of butter fat content.

SEC. 10. Every dealer or shipper of dairy products shall keep a complete and accurate record of all butter fat in milk and/or cream bought, handled, processed, manufactured or distributed by him. Such record shall be in such form and contain such information as the commission shall by regulation or rule prescribe. Such records shall be preserved by such handler, processor, manufacturer, dealer, distributor or shipper for a period of two (2) years, and shall be offered and submitted for inspection at any time upon written or oral request or demand

by the commission or its duly authorized agent or employee.

SEC. 11. Every dealer and shipper shall at such times as the commission may by rule or regulation require, file with the commission a return under oath on forms to be prescribed and furnished by the commission, stating the quantity of dairy products handled, processed, manufactured, distributed, shipped, and butter fat content of all milk and/or cream delivered to or purchased by such person from the various producers of dairy products or their agents in the State of Washington during the period or periods of time prescribed by the commission. Return filed.

SEC. 12. All assessments levied and imposed by this act shall be due and payable before any milk or cream is shipped out of this state. No milk and/or cream shall be carried, transported, or shipped by any person or by any carrier, railroad, truck, boat, or other conveyance until such assessment has been paid to the commission and official receipt issued. Assessments due and payable, when.

The commission shall by rule or regulation prescribe the method of collection, and for that purpose may require stamps to be known as dairy products advertising stamps to be purchased from the commission and fixed or attached to the containers, invoices, shipping documents on all shipments of milk and/or cream shipped from the State of Washington to any other state in the United States, or territory, the District of Columbia, or foreign country. Any such stamps shall be immediately cancelled by the dealer upon being so attached or fixed, and date of cancellation shall be placed on such stamps. Collections.

SEC. 13. That in order to adequately advertise Washington dairy products in the domestic and national markets and to make such advertising as Advertisement of Washington dairy products.

extensive as public interest and necessity require, and to put into force and effect the policy of the State of Washington by this act intended, it is the duty of the commission to provide for and conduct a comprehensive and extensive research advertising and educational campaign, and to keep such advertising and education as continuous as the production, sales, and market conditions reasonably require. The commission shall investigate and ascertain the needs of the dairy products, producers, the conditions of the markets, and the extent to which public convenience and necessity require advertising and research to be conducted. If upon such investigation, it shall appear that the revenue from the maximum assessment of one-fifth ($\frac{1}{5}$) of one cent (1¢) per pound butter fat provided in section 9 is more than adequate to accomplish the purposes and objects of this act, it shall file a request with the Director of Agriculture showing the necessities of the industry, the extent and probable cost of the required research and advertising, the extent of public convenience, interest and necessity, and the probable revenue from the assessment herein levied and imposed. If such probable revenue is more than the amount reasonably necessary to conduct the research and advertising that the public interest, convenience and the State of Washington require to accomplish the objects and purposes of the act, the commission shall decrease the assessment to a sum that the commission shall determine adequate to affectuate the purposes of this act, but in no case shall any assessment exceed the amount provided in section 9 of this act: *And provided further*, That no such change shall be made in rate of assessment until the commission shall have filed with the Director of Agriculture a full report of such investigations and findings. Such change in assessment shall be effective thirty (30) days after such report is filed.

Change in
amount of
assessment.

SEC. 14. Any person who shall violate or aid in the violation of any provision of this act shall be guilty of a gross misdemeanor. Penalty for violation of act.

SEC. 15. The several Superior Courts of the State of Washington are hereby vested with jurisdiction to enforce this act and to prevent and restrain violations thereof. Jurisdiction of courts.

SEC. 16. That it shall be the duty of all state and county law enforcement officers and all employees and agents of the Department of Agriculture to enforce this act. Enforcement of act.

SEC. 17. This act shall be liberally construed. If any section, sentence, clause or part of this act is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this act. Liberal construction.

SEC. 18. Every rule, regulation or order promulgated by the commission shall be filed with the Director of Agriculture of the State of Washington, and shall be published in two legal newspapers, one east of the Cascade Mountains, and one west thereof, within ten (10) days after its promulgation; and such rules, orders, or regulations shall become effective ten (10) days after such filing and publication. Rules filed and published.

SEC. 19. The commission through its authorized agents, shall have the right to inspect the premises, books, records, documents, and all other instruments of any carrier, railroad, truck, boat, handler, dealer, manufacturer, processor or distributor of dairy products for the purpose of enforcing this act and the collection of the assessment provided for in section 9 hereof. Inspection.

Passed the House March 3, 1939.

Passed the Senate March 2, 1939.

Approved by the Governor March 20, 1939.