

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH30158-TQxf-6

Short Title: Grade "A" Dairy Assessment Act. (Public)

Sponsors: Representative McNeely.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH A VOLUNTARY ASSESSMENT FOR GRADE "A" DAIRY
3 PRODUCERS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Chapter 106 of the General Statutes is amended by adding a new
6 Article to read:

7 "Article 68B.

8 "Grade "A" Dairy Assessment Act.

9 **§ 106-816. Title.**

10 This Article shall be known as the "Grade "A" Dairy Assessment Act."

11 **§ 106-816.1. Purpose.**

12 It is in the public interest for the State to enable dairy producers to assess themselves in order
13 to raise funds to promote the interests of the dairy industry.

14 **§ 106-816.2. Definitions.**

15 The following definitions apply in this Article:

- 16 (1) Association. – The North Carolina Dairy Producers Association.
17 (2) Dairy cooperative. – An association of dairy producers owned by its members
18 and organized to provide services to its members, including finding markets
19 for milk produced by its members.
20 (3) Dairy producer. – A person who is a North Carolina resident and is involved
21 in the production of Grade "A" milk for commercial sale.
22 (4) Department. – The North Carolina Department of Agriculture and Consumer
23 Services.
24 (5) Grade "A" milk. – Fluid milk and milk products which have been produced,
25 transported, handled, processed, and distributed in accordance with the
26 provisions of the rules adopted by the Board of Agriculture.
27 (6) Milk. – The lacteal secretion practically free from colostrum obtained by the
28 milking of one or more cows.
29 (7) Milk handler. – Any person, firm, corporation, or dairy cooperative engaged
30 in the receiving, handling, distribution, or sale of fluid milk or milk products
31 that are intended for bottling, manufacturing, processing, distribution, or sale
32 in this State.

33 **§ 106-816.3. Referendum.**

34 (a) The Association may conduct among dairy producers a referendum upon the question
35 of whether an assessment shall be levied as provided for herein.

36 (b) The Association shall determine all of the following:



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- 1 (1) The amount of the proposed assessment.
- 2 (2) The time and place of the referendum.
- 3 (3) Procedures for conducting the referendum and counting of votes.
- 4 (4) Any other matters pertaining to the referendum.

5 (c) The amount of the proposed referendum shall be stated on the referendum ballot. The
6 amount may not exceed five cents (5¢) for each hundredweight of Grade "A" milk produced by
7 a dairy producer in this State. If the assessment is approved in the referendum, the Association
8 may set the assessment at an amount equal to or less than the amount stated on the ballot. If the
9 Association sets a lower amount than the amount approved by referendum, it may increase the
10 amount annually without a referendum by no more than one cent (1¢) for each hundredweight of
11 Grade "A" milk. The increased rate may not exceed the amount approved by referendum and
12 may not exceed the maximum allowable rate of five cents (5¢) for each hundredweight of Grade
13 "A" milk.

14 (d) All dairy producers may vote in the referendum. Any dispute over eligibility to vote
15 or any other matter relating to the referendum shall be determined by the Association. The
16 Association shall make reasonable efforts to provide dairy producers with notice of the
17 referendum and an opportunity to vote.

18 **"§ 106-816.4. Payment and collection of assessment.**

19 (a) The assessment shall not be collected unless more than half of the votes cast in the
20 referendum are in favor of the assessment. If more than half of the votes cast in the referendum
21 are in favor of the assessment, then the Association shall notify the Department of the amount of
22 the assessment and the effective date of the assessment. The Department shall notify all dairy
23 producers of the assessment.

24 (b) Each dairy producer shall pay an assessment on each hundredweight of Grade "A"
25 milk produced in this State and sold commercially.

26 (c) Each milk handler or dairy cooperative shall collect the assessment by deducting the
27 amount of the assessment from the proceeds of the sale of Grade "A" milk. The milk handler or
28 dairy cooperative shall remit to the Department no later than the twentieth day following the end
29 of each calendar month the assessment on Grade "A" milk sold during that month. Any fluid milk
30 producer-processor who markets Grade "A" milk of its own production directly to consumers, or
31 any dairy producer who does not use the services of a milk handler or dairy cooperative located
32 in this State, shall also pay the assessment under this section. Any dairy producer who fails to
33 remit the assessment for the previous year's sales by January 20 shall pay a penalty of five percent
34 (5%) of the unpaid assessment plus a penalty of one percent (1%) of the unpaid assessment for
35 each month after January 20 that the assessment remains unpaid.

36 (d) The Association may conduct inspections or audits of the books of any dairy
37 producer. If the inspection or audit reveals that a dairy producer has willfully failed to remit
38 assessments when due, the dairy producer shall pay the Association the reasonable costs of the
39 inspection or audit.

40 (e) The Association may bring an action to collect unpaid assessments, penalties, and
41 reasonable costs of any inspection or audit as provided in subsection (c) of this section against
42 any dairy producer who fails to pay the assessment, penalties, or costs. If successful, the
43 Association shall also recover the cost of such action, including attorneys' fees.

44 **"§ 106-816.5. Use of assessments; refunds.**

45 (a) The Department shall remit all funds collected under this Article to the Association
46 at least quarterly. The Association shall use the funds to promote the interests of the dairy
47 industry. The Association shall use such funds for research and marketing related to dairy
48 products and the dairy industry, including such administrative expenses as may be reasonably
49 necessary to carry out this function.

50 (b) A dairy producer may request a refund of the assessment collected under this Article
51 by submitting a written request for a refund to the Association postmarked on or before December

1 31 of the same year. A refund request shall be accompanied by proof of payment of the
2 assessment satisfactory to the Association and a written statement that the dairy producer did not
3 receive a benefit from the assessment. The Association shall mail a refund to the dairy producer
4 within 120 days of receipt of a properly documented refund request.

5 **"§ 106-816.6. Termination of assessment.**

6 Upon receipt of a petition signed by at least fifty percent (50%) of the dairy producers in
7 North Carolina known to the Association, the Department shall notify the Association and the
8 Association shall, within six months, conduct a referendum upon the question of continuing the
9 assessment. The referendum shall be conducted in the same manner as the initial referendum
10 upon the question of whether an assessment shall be levied. If a majority of the votes cast in the
11 referendum are against continuing the assessment, or if the Association fails to conduct a
12 referendum within the six-month period, the assessment expires at the end of the six-month
13 period. If a majority of the votes cast in the referendum are in favor of continuing the assessment,
14 then no subsequent referendum shall be held for at least three years."

15 **SECTION 2.(a)** G.S. 106-559.1 reads as rewritten:

16 **"§ 106-559.1. Basis of vote on milk product assessment.**

17 Notwithstanding any other provision of this Article, any milk product assessment referendum
18 conducted pursuant to this Article shall be conducted on the basis of one vote per base holder."

19 **SECTION 2.(b)** G.S. 106-563.1 reads as rewritten:

20 **"§ 106-563.1. Supervision of referendum on milk product assessment.**

21 Notwithstanding any other provision of this Article, any milk product assessment referendum
22 conducted pursuant to this Article shall be conducted under the supervision of the County
23 Extension Chairman in each county in which the referendum is held."

24 **SECTION 2.(c)** G.S. 106-567.1 reads as rewritten:

25 **"§ 106-567.1. Refund of milk product assessments.**

26 Notwithstanding any other provision of this Article, on and after January 1, 1982, a milk
27 producer shall be entitled to receive a monthly refund of assessments paid by ~~him~~ the milk
28 producer pursuant to this Article by making written demand in the first month of each calendar
29 quarter upon the association receiving such assessment."

30 **SECTION 3.** This act is effective when it becomes law.