

Opinion No. 90.

**Milk Control Board—Power to Fix
Prices—Market Area.**

HELD: Milk Control Board does not have power to fix the price of milk and cream sold outside of market areas.

The Milk Control Board has power to fix prices of milk and cream sold within market areas, regardless of the consumer.

June 21, 1939.

Mr. G. A. Norris
Acting Executive-Secretary
Montana Milk Control Board
The Capitol

Dear Mr. Norris:

You have submitted the following questions:

“Under the new Montana Milk Control Board law, as is outlined in

Chapter 204, Laws of 1939, does the Montana Milk Control Board have jurisdiction over fluid milk and cream which is processed or handled by a distributor in a designated market area of the board, but which is sold by such distributor to agencies such as the CCC Camps located beyond the limits of a designated market area?

"Also, in the event that such CCC Camp or other agency is located within the limit of a market area, does the Montana Milk Control board then have jurisdiction over the fluid milk and cream sold to such agency?"

No facts are stated but we assume that the question before the board is whether the price may be fixed for milk and cream sold beyond and within the designated market area.

We think that Sections 6 and 7, Chapter 204, Laws of 1939, limit the right of the board to fix prices after a public hearing within the designated market. We are unable to find any language in the act which gives power to the board to fix prices beyond the limit of a market. To do so would penalize distributors by not permitting them to compete with other distributors without market areas for business outside of market areas.

As for your second question, see Volume 17, Opinions of the Attorney General, p. 140. The act applies to all producers, producer-distributors and distributors within a market. We do not think that it is relevant that the milk might be consumed in a CCC Camp. There is nothing in the act which makes its operation depend upon who the consumer might be.