

No. 271

**MILK CONTROL BOARD—LICENSE FEES, delinquent—
PENALTIES—DAIRIES**

Held: Section 12, Chapter 204, Laws of 1939, places the burden on the Milk Control Board to collect the fee from a licensee, and upon his failure to pay the required fee within the time allowed by the Board, his license should be revoked and he should not be reinstated except upon payment in full of the delinquent yearly fee or the delinquent portion thereof, as the case may be, plus ten percent penalty upon the delinquent amount.

October 20, 1941.

Mr. G. A. Norris, Secretary
Montana Milk Control Board
Helena, Montana

Dear Mr. Norris:

You have submitted the following:

"In the event that a dairyman is delinquent in the payment of his license fees to the office of the board for the year 1940, and refuses to pay his 1940 license, in order to reinstate his status with the board, tenders payment of his 1941 Montana Milk Control Board license,

"1. Is the board required to accept payment of his 1941 Milk Control Board license in view of the fact that he has refused to make payment of his delinquent license of the year, 1940?

"2. Can the board require such delinquent licensee to make payment of delinquent licenses for the year 1940, with the regular assessment as is set forth in Section 12, of Chapter 204, of the Session Laws of 1939?"

The question presented here is identical with that presented to the Attorney General in Opinion Number 221, recorded in Volume 17, page 271, Report and Official Opinions of the Attorney General, and we would be constrained to concur in that opinion were it not for the provisions of Section 12 of Chapter 204, Laws of 1939, which provides:

"Any person who fails to pay his license fee when due or within the time, if any, extended by the milk control board for the payment of such license fee, shall automatically owe a penalty of ten percent (10%) of the delinquent portion of said yearly license fee. And in the event of a license being revoked for failure to pay a license fee as required in this act, the license shall not be reinstated, except upon payment, in full, of the delinquent yearly fee or the delinquent portion thereof, as the case may be, plus a ten percent (10%) penalty upon the delinquent amount."

Therefore it is my opinion the above section clearly places the burden upon the Milk Control Board to collect the fee from the licensee; and upon his failure to pay the required fee within the time allowed by the board, his license should be revoked and he should not be reinstated except upon payment in full of the delinquent yearly fee or the delinquent portion thereof, as the case may be, plus ten percent (10%) penalty upon the delinquent amount.

Sincerely yours,

JOHN W. BONNER
Attorney General