

Opinion No. 120**Milk Control Board—Prices, Fixing of**

Held: The Montana Milk Control Board has been authorized by our legislative assembly to fix only the minimum prices to be paid by milk dealers to producers and others for milk and the minimum wholesale or retail prices to be charged for milk in its various grades and uses handled within the state for fluid consumption.

July 23, 1948

Montana Milk Control Board
Capitol Building
Helena, Montana

Attention: Mr. A. A. Klemme,
Executive Secretary

Gentlemen:

You have asked this office to clarify Official Opinion No. 63, Volume 22, Report and Official Opinions of the Attorney General, by informing you whether that opinion referred only to minimum prices.

Official Opinion No. 63, Volume 22, Report and Official Opinions of the Attorney General, held:

“ . . . the Montana Milk Control Board may not allow alteration or revision of prices for milk set by it in any Montana area without first holding a public hearing on the mat-

ter in the same manner provided by law for the original fixing of prices."

This holding was based upon the provisions of Section 7 of Chapter 204, Laws of 1939, which provides a public hearing is necessary prior to alteration, revision or amendment by the milk control board of any official order theretofore made by the board with relation to prices.

Section 7 also provides in paragraph (a) and (b) the board's official orders shall fix minimum prices to be paid by milk dealers to producers and others for milk, and minimum wholesale prices to be charged for milk in its various grades and uses for fluid consumption.

By use of the word "minimum" with such great frequency in Section 7 of Chapter 204, Laws of 1939, the legislative assembly apparently intended to limit the power of the milk control board to a narrow field with relation to price fixing. Despite the fact Section 7 commands the board to take into consideration not only the balance between production and consumption of milk and the costs of production and distribution, but also the purchasing power of the public, the legislative assembly failed to provide any specific machinery whereby a maximum price might be denominated as a result of the consideration of purchasing power.

It is perhaps noteworthy, however, that the legislative assembly did authorize the milk control board to classify milk by forms, classes, grades and uses and to specify the minimum prices therefor. (Also Sec. 7).

It is, therefore, my opinion, the Montana Milk Control Board has been authorized by our legislative assembly to fix only the minimum prices to be paid by milk dealers to producers and others for milk and the minimum wholesale or retail prices to be charged for milk in its various grades and uses handled within the state for fluid consumption.

Sincerely yours,
R. V. BOTTOMLY,
Attorney General