

1 *House* BILL NO. *368*
2 INTRODUCED BY *Miloy Hunter & Manuel Badame*

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE
5 AUTHORITY OF THE DEPARTMENT OF BUSINESS REGULATION OVER MILK
6 TRANSPORTATION RATES; AMENDING SECTION 27-405, R.C.M. 1947."

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Section 27-405, R.C.M. 1947, is amended to
10 read as follows:

11 "27-405. General powers of the milk control board. (1)
12 The board is hereby vested with the powers, and it shall be
13 its duty to supervise, regulate and control the milk
14 industry of the state of Montana, including the production,
15 transportation, including transportation rates which
16 processors charge producers, processing, storage,
17 distribution and sale of milk in the state of Montana for
18 consumption within the state, providing however, that
19 nothing contained in this act shall be construed to abrogate
20 or affect the status, force or operation of any provision of
21 public health laws or the law under which the Montana
22 livestock sanitary board is constituted together with the
23 Montana livestock sanitary board regulations or county board
24 of health regulations, or municipal ordinances for the
25 promotion or protection of the public health, but the board

1 shall have the power to co-operate with the state board of
2 health, the Montana livestock sanitary board or any county
3 or city board of health or the state department of
4 agriculture and industry in enforcing the provisions of this
5 act.

6 (2) The board shall have the power and it shall be its
7 duty to investigate all matters pertaining to the
8 production, transportation, processing, storage,
9 distribution and sale of milk in the state of Montana and to
10 conduct hearings upon any subject pertinent to the
11 administration of this act. The board shall have the power
12 to subpoena milk dealers, their records, books and accounts,
13 and any other person from whom information may be desired or
14 deemed necessary to carry out the purposes and intent of
15 this act, and may issue commissions to take depositions of
16 witnesses who are sick or absent from the state or who
17 cannot otherwise appear in person before the milk control
18 board at its offices in the state capitol, provided at least
19 ten (10) days notice is given to the proposed witness.

20 (3) It shall be the duty of any sheriff of any county
21 of the state, when requested to do so by the board, to
22 execute any summons, citations or notice which the board may
23 cause to be issued, for which such sheriff shall be
24 authorized to charge the same fee against the funds provided
25 for the milk control board as he might lawfully charge for

1 the same service of such a document if issued from any
 2 district court of the state of Montana. Any person, other
 3 than a dealer who is cited for violation of the provisions
 4 of this act, or cited to show cause why his license should
 5 not be revoked, shall receive for his attendance before the
 6 milk control board or its duly designated agent the same
 7 compensation as is provided for a witness subpoenaed to
 8 appear before the district court, which shall be charged
 9 against the funds provided for the operation of the milk
 10 control board.

11 (4) Any duly designated agent of the board may
 12 administer oath to witnesses, may call and give notice of
 13 price hearings when the board is not in session and may
 14 conduct hearings or investigations and any such duly
 15 designated agent of the board may sign and issue subpoenas
 16 requiring witnesses to appear before him or the board, and
 17 in addition to the manner provided above for the execution
 18 of subpoenas, summons and citations issued by the milk
 19 control board to witnesses or dealers, the board, through
 20 its designated agent shall have the power to serve said
 21 subpoenas, summons or citations upon any person by sending a
 22 copy of such subpoena, summons or citation, through the
 23 United States mail, postage prepaid, which said mail shall
 24 be registered with return receipt attached and such service
 25 shall be complete when said registered mail shall be

1 delivered to said person and such receipt returned to the
 2 board or its designated agent, signed by the person sought
 3 to be summoned, subpoenaed, or cited. Obedience to a
 4 subpoena, summons or citation, issued by the board or any
 5 person authorized and designated by the board to issue said
 6 subpoena, summons or citation, may be enforced by
 7 application to any judge of the district court of the county
 8 in which such subpoena, summons or citation was issued or to
 9 any judge of the district court of the county in which such
 10 person subpoenaed, summoned or cited resides and said court
 11 shall order compliance with said subpoena, summons or
 12 citation and upon failure of the witness to attend, to
 13 testify, or to produce such books or papers or records as
 14 the board may have commanded, such witness may be punished
 15 for contempt of court as for failure to obey a subpoena
 16 issued by or to testify in a case pending before said court.

17 (5) The board may act as mediator or arbitrator to
 18 settle any controversy or issue pertaining to milk among or
 19 between producers, distributors, producer-distributors
 20 and/or consumers.

21 The operation and effect of any provisions of this act,
 22 conferring a general power upon the milk control board,
 23 shall not impair or limit any specific power or powers
 24 granted to the milk control board by this act."

-End-

Approved by Committee
on Business and Industry

HOUSE BILL NO. 368

INTRODUCED BY MELOY, GUNDERSON, MANUEL, BARDANOUVE

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE
AUTHORITY OF THE DEPARTMENT OF BUSINESS REGULATION OVER MILK
TRANSPORTATION RATES; AMENDING SECTION 27-405, R.C.M. 1947;
AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 27-405, R.C.M. 1947, is amended to
read as follows:

"27-405. General powers of the milk control board. (1)
The board is hereby vested with the powers, and it shall be
its duty to supervise, regulate and control the milk
industry of the state of Montana, including the production,
transportation, including transportation rates which
processors DISTRIBUTORS, CONTRACT HAULERS, AND OTHERS charge
producers, processing, storage, distribution and sale of
milk in the state of Montana for consumption within the
state, providing however, that nothing contained in this act
shall be construed to abrogate or affect the status, force
or operation of any provision of public health laws or the
law under which the Montana livestock sanitary board is
constituted together with the Montana livestock sanitary
board regulations or county board of health regulations, or

municipal ordinances for the promotion or protection of the
public health, but the board shall have the power to
co-operate with the state board of health, the Montana
livestock sanitary board or any county or city board of
health or the state department of agriculture and industry
in enforcing the provisions of this act.

(2) The board shall have the power and it shall be its
duty to investigate all matters pertaining to the
production, transportation, processing, storage,
distribution and sale of milk in the state of Montana and to
conduct hearings upon any subject pertinent to the
administration of this act. The board shall have the power
to subpoena milk dealers, their records, books and accounts,
and any other person from whom information may be desired or
deemed necessary to carry out the purposes and intent of
this act, and may issue commissions to take depositions of
witnesses who are sick or absent from the state or who
cannot otherwise appear in person before the milk control
board at its offices in the state capitol, provided at least
ten (10) days notice is given to the proposed witness.

(3) It shall be the duty of any sheriff of any county
of the state, when requested to do so by the board, to
execute any summons, citations or notice which the board may
cause to be issued, for which such sheriff shall be
authorized to charge the same fee against the funds provided

1 for the milk control board as he might lawfully charge for
 2 the same service of such a document if issued from any
 3 district court of the state of Montana. Any person, other
 4 than a dealer who is cited for violation of the provisions
 5 of this act, or cited to show cause why his license should
 6 not be revoked, shall receive for his attendance before the
 7 milk control board or its duly designated agent the same
 8 compensation as is provided for a witness subpoenaed to
 9 appear before the district court, which shall be charged
 10 against the funds provided for the operation of the milk
 11 control board.

12 (4) Any duly designated agent of the board may
 13 administer oath to witnesses, may call and give notice of
 14 price hearings when the board is not in session and may
 15 conduct hearings or investigations and any such duly
 16 designated agent of the board may sign and issue subpoenas
 17 requiring witnesses to appear before him or the board, and
 18 in addition to the manner provided above for the execution
 19 of subpoenas, summons and citations issued by the milk
 20 control board to witnesses or dealers, the board, through
 21 its designated agent shall have the power to serve said
 22 subpoenas, summons or citations upon any person by sending a
 23 copy of such subpoena, summons or citation, through the
 24 United States mail, postage prepaid, which said mail shall
 25 be registered with return receipt attached and such service

1 shall be complete when said registered mail shall be
 2 delivered to said person and such receipt returned to the
 3 board or its designated agent, signed by the person sought
 4 to be summoned, subpoenaed, or cited. Obedience to a
 5 subpoena, summons or citation, issued by the board or any
 6 person authorized and designated by the board to issue said
 7 subpoena, summons or citation, may be enforced by
 8 application to any judge of the district court of the county
 9 in which such subpoena, summons or citation was issued or to
 10 any judge of the district court of the county in which such
 11 person subpoenaed, summoned or cited resides and said court
 12 shall order compliance with said subpoena, summons or
 13 citation and upon failure of the witness to attend, to
 14 testify, or to produce such books or papers or records as
 15 the board may have commanded, such witness may be punished
 16 for contempt of court as for failure to obey a subpoena
 17 issued by or to testify in a case pending before said court.

18 (5) The board may act as mediator or arbitrator to
 19 settle any controversy or issue pertaining to milk among or
 20 between producers, distributors, producer-distributors
 21 and/or consumers.

22 The operation and effect of any provisions of this act,
 23 conferring a general power upon the milk control board,
 24 shall not impair or limit any specific power or powers
 25 granted to the milk control board by this act.

1 SECTION 2. INTENT OF ACT. IT IS THE INTENT OF THIS
2 ACT TO PLACE JURISDICTION OVER MILK HAULING RATES FROM FARM
3 TO PLANT IN THE DEPARTMENT OF BUSINESS REGULATION AND
4 JURISDICTION OVER SUCH RATES AMONG PLANTS IN THE BOARD OF
5 MILK CONTROL."

6 SECTION 3. THIS ACT IS EFFECTIVE ON ITS PASSAGE AND
7 APPROVAL.

-End-

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2 INTRODUCED BY MELOY, GUNDERSON, MANUEL, BARDANOUVE

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5 AUTHORITY OF THE DEPARTMENT OF BUSINESS REGULATION OVER MILK
6 TRANSPORTATION RATES; AMENDING SECTION 27-405, R.C.M. 1947;
7 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:10 Section 1. Section 27-405, R.C.M. 1947, is amended to
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14 its duty to supervise, regulate and control the milk
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18 producers, processing, storage, distribution and sale of
19 milk in the state of Montana for consumption within the
20 state, providing however, that nothing contained in this act
21 shall be construed to abrogate or affect the status, force
22 or operation of any provision of public health laws or the
23 law under which the Montana livestock sanitary board is
24 constituted together with the Montana livestock sanitary
25 board regulations or county board of health regulations, or

1 municipal ordinances for the promotion or protection of the
2 public health, but the board shall have the power to
3 co-operate with the state board of health, the Montana
4 livestock sanitary board or any county or city board of
5 health or the state department of agriculture and industry
6 in enforcing the provisions of this act.

7 (2) The board shall have the power and it shall be its
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12 administration of this act. The board shall have the power
13 to subpoena milk dealers, their records, books and accounts,
14 and any other person from whom information may be desired or
15 deemed necessary to carry out the purposes and intent of
16 this act, and may issue commissions to take depositions of
17 witnesses who are sick or absent from the state or who
18 cannot otherwise appear in person before the milk control
19 board at its offices in the state capitol, provided at least
20 ten (10) days notice is given to the proposed witness.

21 (3) It shall be the duty of any sheriff of any county
22 of the state, when requested to do so by the board, to
23 execute any summons, citations or notice which the board may
24 cause to be issued, for which such sheriff shall be
25 authorized to charge the same fee against the funds provided

1 for the milk control board as he might lawfully charge for
 2 the same service of such a document if issued from any
 3 district court of the state of Montana. Any person, other
 4 than a dealer who is cited for violation of the provisions
 5 of this act, or cited to show cause why his license should
 6 not be revoked, shall receive for his attendance before the
 7 milk control board or its duly designated agent the same
 8 compensation as is provided for a witness subpoenaed to
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 11 control board.

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 18 in addition to the manner provided above for the execution
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 20 control board to witnesses or dealers, the board, through
 21 its designated agent shall have the power to serve said
 22 subpoenas, summons or citations upon any person by sending a
 23 copy of such subpoena, summons or citation, through the
 24 United States mail, postage prepaid, which said mail shall
 25 be registered with return receipt attached and such service

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 6 person authorized and designated by the board to issue said
 7 subpoena, summons or citation, may be enforced by
 8 application to any judge of the district court of the county
 9 in which such subpoena, summons or citation was issued or to
 10 any judge of the district court of the county in which such
 11 person subpoenaed, summoned or cited resides and said court
 12 shall order compliance with said subpoena, summons or
 13 citation and upon failure of the witness to attend, to
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5 MILK CONTROL."

6 SECTION 3. THIS ACT IS EFFECTIVE ON ITS PASSAGE AND
7 APPROVAL.

-End-

March 10, 1975

SENATE COMMITTEE ON BUSINESS AND INDUSTRY

AMENDMENTS TO HOUSE BILL NO. 368

That House Bill No. 368, third reading, be amended as follows:

1. Amend page 5, section 2, line 2.
Following: "from"
Strike: "farm"
Insert: "producer"

March 20, 1975

SENATE COMMITTEE ON JUDICIARY
AMENDMENTS TO HOUSE BILL NO. 367

That House Bill No. 367, third reading, be amended as follows:

1. Amend page 1, section 1, line 17.
Following: "waste"
Strike: "or"
Insert: ", "
2. Amend page 1, section 1, line 18.
Following: "trespass"
Insert: "or injury"
3. Amend page 1, section 1, line 19.
Following: "claim"
Insert: "or seismic exploration, location, spacing, drilling, equipping, producing, or other operation related to exploration or production of oil, gas, water, geothermal or other minerals"
4. Amend page 1, section 1, lines 21 through line 1 on page 2.
Following: "trespass"
Strike: lines 21 through line 1 on page 2 in their entirety
Insert: "."

HOUSE BILL NO. 368

INTRODUCED BY MELOY, GUNDERSON, MANUEL, BARDANOUVE

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE AUTHORITY OF THE DEPARTMENT OF BUSINESS REGULATION OVER MILK TRANSPORTATION RATES; AMENDING SECTION 27-405, R.C.M. 1947; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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municipal ordinances for the promotion or protection of the public health, but the board shall have the power to co-operate with the state board of health, the Montana livestock sanitary board or any county or city board of health or the state department of agriculture and industry in enforcing the provisions of this act.

(2) The board shall have the power and it shall be its duty to investigate all matters pertaining to the production, transportation, processing, storage, distribution and sale of milk in the state of Montana and to conduct hearings upon any subject pertinent to the administration of this act. The board shall have the power to subpoena milk dealers, their records, books and accounts, and any other person from whom information may be desired or deemed necessary to carry out the purposes and intent of this act, and may issue commissions to take depositions of witnesses who are sick or absent from the state or who cannot otherwise appear in person before the milk control board at its offices in the state capitol, provided at least ten (10) days notice is given to the proposed witness.

(3) It shall be the duty of any sheriff of any county of the state, when requested to do so by the board, to execute any summons, citations or notice which the board may cause to be issued, for which such sheriff shall be authorized to charge the same fee against the funds provided

1 for the milk control board as he might lawfully charge for
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3 PRODUCER TO PLANT IN THE DEPARTMENT OF BUSINESS REGULATION
4 AND JURISDICTION OVER SUCH RATES AMONG PLANTS IN THE BOARD
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