

HOUSE BILL 292

IN THE HOUSE

January 22, 1979

Introduced and referred to
Committee on Business and
Industry.

February 1, 1979

Committee recommend bill,
as amended.

February 2, 1979

Printed and placed on members'
desks.

February 5, 1979

On motion, passed until 31st
Legislative day.

February 7, 1979

Second reading, do not pass.

House BILL NO. 292

INTRODUCED BY Metcalf, Foster, Harrington, Casey, Olexell, Vincent, Foster, Menahan, Swankler, McBride, Faltz

A BILL FOR AN ACT ENTITLED: "AN ACT TO REPEAL THE LAWS RELATING TO MILK PRICE CONTROL; RETAINING THE PROHIBITION ON UNFAIR TRADE PRACTICES BY MILK DISTRIBUTORS AND PRODUCERS; PROVIDING CERTAIN CONSUMER PROTECTION FEATURES; REPEALING SECTIONS 81-23-101 THROUGH 81-23-106, 81-23-201 THROUGH 81-23-205, 81-23-301 THROUGH 81-23-305, AND 81-23-401 THROUGH 81-23-406, MCA."

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

Section 1. Unfair trade practice prohibited. A milk distributor or producer may not engage in an unfair trade practice.

Section 2. Rules of fair trade practices -- milk distributors and producers. (1) The department of business regulation may adopt, amend, and repeal rules governing fair trade practices as they pertain to the transaction of business among milk producers, distributors, and the general public.

(2) Those rules shall contain but are not limited to provisions prohibiting the following methods of doing business which are unfair, unlawful, and not in the public interest:

(a) the payment, allowance, or acceptance of secret rebates, secret refunds, or unearned discounts by a person, whether in the form of money or otherwise;

(b) the giving of milk, cream, dairy products, services, or articles of any kind, except to bona fide charities, for the purpose of securing or retaining the fluid milk or fluid cream business of a customer;

(c) the extension to certain customers of special prices or services not available to all customers who purchase milk of like quantity under like terms and conditions;

(d) the sale of any milk or milk product below the seller's cost, except to meet competition.

(3) With respect to a violation of subsection (2)(d):

(a) the burden of proof is on the seller;

(b) retailer's cost is defined as net invoice cost plus his cost of doing business;

(c) distributor's cost is defined as the raw product cost plus his cost of doing business; and

(d) retailers and distributors must establish the cost of doing business with the department and update these costs from time to time as changes occur.

Section 3. Penalties. (1) A person who violates [section 1] or a lawful rule adopted in accordance with [section 2] is guilty of a misdemeanor and punishable by a

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1 fine not less than \$100 or more than \$1,000.

2 (2) Each day's violation is a separate offense.

3 . Section 4. Repealer. Sections 81-23-101 through
4 81-23-106, 81-23-201 through 81-23-205, 81-23-301 through
5 81-23-305, and 81-23-401 through 81-23-406, MCA, are
6 repealed.

-End-

FISCAL NOTE

Form BD-15

In compliance with a written request received February 6, 1979, there is hereby submitted a Fiscal Note for House Bill 292 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION:

An act to repeal the laws relating to Milk Price Control; retaining the prohibition on Unfair Trade Practices by milk distributors and producers; etc.

ASSUMPTIONS:

1. Activity in the Milk Industry will increase.
2. Complaints associated with Fair Trade will increase.
3. Legal activity will increase.
4. 4 FTE will be required to carry out the demands anticipated by passage of the bill.
5. Funding will be from the General Fund.

FISCAL IMPACT:

	<u>1980</u>	<u>1981</u>
Personal services	\$59,210	\$ 62,764
Operating expenses	<u>35,160</u>	<u>40,160</u>
Total Cost	<u>\$94,370</u>	<u>\$102,924</u>

Richard L. Drayner
 BUDGET DIRECTOR
 Office of Budget and Program Planning
 Date: 2/6/79

Approved by Committee
on Business and Industry

HOUSE BILL NO. 292

INTRODUCED BY METCALF, FRATES, HARRINGTON, COONEY, FAGG,
MCCBRIDE, O'CONNELL, VINCENT, PORTER, LORY, MENAHAN,
HUENNEKENS, REICHERT

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RELATING TO MILK PRICE CONTROL; RETAINING THE PROHIBITION ON
UNFAIR TRADE PRACTICES BY MILK DISTRIBUTORS AND PRODUCERS;
PROVIDING CERTAIN CONSUMER PROTECTION FEATURES; REPEALING
SECTIONS 81-23-101 THROUGH 81-23-106, 81-23-201 THROUGH
81-23-205, 81-23-301 THROUGH 81-23-305, AND 81-23-401
THROUGH 81-23-406, MCA; AND PROVIDING AN EFFECTIVE DATE."

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7 81-23-305, and 81-23-401 through 81-23-406, MCA, are
8 repealed.

9 ~~SECTION 5. EFFECTIVE DATE. THIS ACT IS EFFECTIVE~~
10 ~~DECEMBER 31, 1979.~~

-End-